



# *State of Alaska*

## *TRS Statutes*

*August  
2003*

*Including the:*

- ✧ *Teachers' Retirement System, and the*
- ✧ *Group Health and Life Insurance Plan*

*The regulations in this handbook  
are current as of August 2003.  
Amendments occurring after that date may  
be found in the Alaska Statutes and  
Alaska Administrative Code.*

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# Alaska Statutes

## TITLE 14. EDUCATION

### Chapter

25. Teachers' Retirement (secs. 14.25.010—14.25.220)

20. Teachers and School Officials (secs. 14.20.310—14.20.330)

### CHAPTER 25. TEACHERS' RETIREMENT SYSTEM OF ALASKA

**Cross References** - For applicability of the amendments made to this chapter by ch. 97, SLA 1990, to members first hired on or after July 1, 1990, and to those hired at any time, see Sec. 17, ch. 97, SLA 1990 in the Temporary and Special Acts. For retirement incentive program in effect from June 19, 1996 through June 30, 1998, see ch. 65, SLA 1996 in the Temporary and Special Acts.

**Administrative Code** - For teachers' retirement system, see 2 AAC 36. For major medical insurance, see 2 AAC 39, art. 3.

For appeals from denials of medical claims under the medical coverage provided by the teachers' retirement system, see 2 AAC 39, art. 5.

**Editors Notes** - In general, a person's right to benefits under the state's public employee retirement systems vests when the person joins the system. *Hammond v. Hoffbeck*, 627 P.2d 1052 (Alaska 1981). Therefore, former law may govern the benefits of some members of the teachers' retirement system. The user is advised to ascertain which version of a particular statute is applicable. Earlier versions of the statutes can be found in prior editions of the Alaska Statutes or in the published Session Laws of Alaska.

**AG Opinions** - There is a strong probability that the Alaska courts would find a diversion of retirement funds for other purposes to be violative of the Alaska constitution and would in addition find the governor bound by statute to include employer contributions in his budget. Therefore, it is strongly recommended that any budget submitted by the governor contain the prescribed funds. December 2, 1992, Op. Att'y Gen.

**Collateral Refs** - 60 Am. Jur. 2d Pensions and Retirement Funds, Sec. 39-72.  
78 C.J.S. Schools and School Districts, Sec. 231-236.

## **SEC. 14.25.010. RETIREMENT SYSTEM ESTABLISHED.**

(a) A joint-contributory retirement system for teachers of the state is created.

(b) The retirement system established by this chapter is intended to qualify under 26 U.S.C. 401(a) and 414(d) (Internal Revenue Code) as a qualified retirement plan established and maintained by the state for its employees, for the employees of school districts and regional educational attendance areas in the state, and for the employees of other employers whose participation is authorized by this chapter and who participate in this system.

**History** - (Sec. 1 ch 145 SLA 1955; am Sec. 1 ch 89 SLA 1960; am Sec. 1 ch 59 SLA 2002)

**Amendment Notes** - The 2002 amendment, effective June 20, 2002, added subsection (b).

## **SEC. 14.25.012. PURPOSE AND EFFECTIVE DATE.**

(a) The purpose of this chapter is to encourage qualified teachers to enter and remain in service with participating employers by establishing a system for the payment of retirement, disability, and death benefits to or on behalf of the members.

(b) The system created became effective as of July 1, 1955, at which time contributions by the participating employers and members began.

**History** - (Sec. 1 ch 13 SLA 1980)

## **SEC. 14.25.015. ADMINISTRATOR.**

The commissioner of administration shall appoint an administrator of the system.

**History** - (Sec. 1 ch 13 SLA 1980)

## **SEC. 14.25.020. POWERS OF THE ADMINISTRATOR.**

(a) The administrator may

(1) formulate and recommend to the Alaska Teachers' Retirement Board regulations to govern the operation of the system;

(2) make expenditures from the retirement fund necessary to administer this chapter.

(b) The administrative expenditures permitted by (a)(2) of this section



shall be included in the governor's budget for each fiscal year and are subject to appropriation by the legislature.

**History** - (Sec. 4 ch 145 SLA 1955; am Sec. 2 ch 142 SLA 1957; am Sec. 3 ch 89 SLA 1960; am Sec. 1 ch 137 SLA 1982)

## **SEC. 14.25.022. REGULATIONS.**

(a) Regulations adopted by the Alaska Teachers' Retirement Board under this chapter relate to the internal management of a state agency and their adoption is not subject to AS 44.62 (Administrative Procedure Act).

(b) Notwithstanding (a) of this section, a regulation adopted under this chapter shall be published in the Alaska Administrative Register and Code for informational purposes. Each regulation adopted under this chapter shall conform to the style and format requirements of the drafting manual for administrative regulations that is published under AS 44.62.050.

(c) At least 30 days before the adoption, amendment, or repeal of a regulation under this chapter, the Alaska Teachers' Retirement Board shall provide notice of the action that is being considered. The notice shall be

(1) posted in public buildings throughout the state;

(2) published in one or more newspapers of general circulation in each judicial district of the state;

(3) mailed to each person or group that has filed a request for notice of proposed action with the Alaska Teachers' Retirement Board; and

(4) furnished to each member of the legislature and to the Legislative Affairs Agency.

(d) Failure to mail notice to a person as required under (c)(3) of this section does not invalidate an action taken by the Alaska Teachers' Retirement Board.

(e) The Alaska Teachers' Retirement Board may hold a hearing on a proposed regulation.

(f) A regulation adopted under this chapter takes effect 30 days after adoption by the Alaska Teachers' Retirement Board.

(g) Notwithstanding the other provisions of this section, a regulation may be adopted, amended, or repealed, effective immediately, as an emergency regulation by the unanimous vote of a quorum of the Alaska Teachers' Retirement Board. For an emergency regulation to be effective the Alaska

Teachers' Retirement Board must find that the adoption, amendment, or repeal of the regulation is necessary for the immediate preservation of the orderly operation of the system or the business of the Alaska Teachers' Retirement Board. The Alaska Teachers' Retirement Board shall, within 10 days after adoption of an emergency regulation, give notice of the adoption under (c) of this section. An emergency regulation adopted under this subsection may not remain in effect past the date of the next regular meeting of the Alaska Teachers' Retirement Board unless the board complies with the procedures set out in this section and adopts the regulation as a permanent regulation.

(h) In this section "regulation" has the meaning given in AS 44.62.640(a).

**History** - (Sec. 1 ch 13 SLA 1963; am Sec. 2 ch 137 SLA 1982; am Sec. 1 ch 35 SLA 1984)

### **SEC. 14.25.030. DUTIES OF THE ADMINISTRATOR.**

The administrator shall

(1) establish and maintain an adequate system of accounts for the system;

(2) approve or disapprove claims for retirement benefits;

(3) serve as secretary of the Alaska Teachers' Retirement Board and keep an official record of all proceedings;

(4) publish annually a report showing the financial condition of the system;

(5) publish an information handbook for the system at intervals as the administrator considers appropriate; and

(6) do whatever else may be necessary to carry out the purposes of this chapter.

**History** - (Sec. 4 ch 145 SLA 1955; am Sec. 2 ch 142 SLA 1957; am Sec. 3 ch 89 SLA 1960; am Sec. 2 ch 13 SLA 1980; am Sec. 1 ch 106 SLA 1988; am Sec. 2 ch 59 SLA 2002)

**Cross References** - For provision relating to submission of an annual report by the administrator to the legislature concerning the effect of the provisions of ch. 57, SLA 2001 (reemployment of and medical benefits for retired members of the teachers' retirement system), and ch. 58, SLA 2001 on the retirement system, see Sec. 12, ch. 57, SLA 2001, and Sec. 10, ch. 58, SLA 2001 in the 2001 Temporary and Special Acts.

**Amendment Notes** - The 2002 amendment, effective June 20, 2002, added paragraph (5) and redesignated former paragraph (5) as paragraph (6).

## **SEC. 14.25.035. TEACHERS' RETIREMENT BOARD.**

(a) There is established the Alaska Teachers' Retirement Board as follows:

(1) the governor shall appoint five members for overlapping three-year terms; one member must be a resident who is receiving retirement benefits under this chapter; statewide teacher organizations may submit to the governor a list of recommended nominees to serve on the board;

(2) the governor shall appoint two physicians authorized to practice medicine in the state to serve as members of the board and two physicians authorized to practice medicine in the state to serve as alternate members to the physician members of the board; the physicians are members of the board only for the purpose of hearing appeals to determine medical eligibility for disability benefits under AS 14.25.130; the Public Employees' Retirement Board and the Teachers' Retirement Board may submit to the governor a list of recommended physicians to serve on the board; if the administrator, after making a reasonable effort to secure the participation of two physicians to serve on a disability appeal, is unable to do so, the board may hear the appeal with the participation of only one physician or alternate, in which case, for purposes of a quorum, the board shall be considered to have only one physician as a member; physician members and alternates serve at the pleasure of the governor.

(b) Members of the board appointed under (a)(1) of this section are entitled to receive for their services on the retirement board an honorarium equal to the honorarium provided to trustees of the Alaska State Pension Investment Board under AS 37.10.250. Physician members of the board are entitled to hourly compensation for their services at a rate to be determined by the commissioner of administration. The rate of compensation shall be consistent with the physicians' normal hourly earnings. All members of the board are entitled to travel expenses and per diem authorized for boards and commissions under AS 39.20.180.

(c) The board shall confer with the commissioner of administration regarding the administration of the system and may make recommendations that it considers necessary.

(d) The commissioner of administration shall report to the board concerning the condition and administration of the system. The reports shall be distributed to the members of the system. The Alaska State Pension Investment Board shall provide reports to the board on the condition and investment performance of the teachers' retirement trust fund including a summary of an annual external performance review.

(e) The board shall serve as an appeal board and shall hold hearings at the request of an employer, member, annuitant, or any beneficiary on decisions made by the administrator. The board shall submit its findings to the administrator. The board shall hold annually one or more public hearings to discuss proposed changes in the system and to consider and adopt resolutions that might apply to the system.

(f) The board shall meet at the call of the chair, any three members, or at the request of the commissioner of administration. The board may adopt regulations defining a quorum for the conduct of its business, including appeals and disability appeals.

(g) Expenses for the board and its operation shall be paid from the retirement fund.

(h) The board may waive the requirements of AS 14.25.173 in accordance with AS 14.25.175.

(i) The board may adopt regulations recommended by the administrator to implement this chapter with modifications it considers proper.

(j) The board shall adopt regulations for the election of trustees to the Alaska State Pension Investment Board and for removal from the investment board of trustees elected from the system.

**History** - (E.O. No. 26 (1964); am Sec. 1 - 3 ch 85 SLA 1969; am Sec. 1 ch 61 SLA 1972; am Sec. 2 ch 81 SLA 1979; am Sec. 3 ch 13 SLA 1980; am Sec. 3 ch 137 SLA 1982; am Sec. 2 ch 106 SLA 1988; am Sec. 1, 2 ch 141 SLA 1988; am Sec. 1, 2 ch 40 SLA 1990; am Sec. 2, 3 ch 31 SLA 1992; am Sec. 2 - 4 ch 68 SLA 2000)

**Amendment Notes** - The 1992 amendment, in the last sentence in subsection (d), substituted "Alaska State Pension Investment Board" for "commissioner of revenue" and added "including a summary of an annual external performance review"; and added subsection (j).

The 2000 amendment, effective August 20, 2000, rewrote paragraph (a)(2) and subsection (b) and in subsection (f) substituted "chair" for "chairman" and added the second sentence.

## **SEC. 14.25.037. HEARINGS.**

(a) The board shall adopt regulations establishing procedures for the conduct of hearings and appeals under this chapter.

(b) In the conduct of a hearing under this chapter, the board may issue subpoenas, administer oaths, compel the attendance and testimony of witnesses, compel the taking of depositions and the submission of affidavits, and compel

the production of documents and records. The board's powers under this subsection do not extend to prehearing discovery. However, upon good cause shown, the board may permit the preservation of witness testimony if the board cannot successfully compel the witness to attend a hearing. The board may authorize hearing officers to conduct hearings under this chapter and issue decisions; the decision of a hearing officer may be appealed to the board. The board shall adopt procedures for appeals from a hearing officer's decision.

(c) A majority of a quorum of the board may issue a ruling or modification of a ruling. If the board's vote on an appeal under this chapter is a tie vote of those members present and voting, the decision being appealed is affirmed. The board, by regulation, shall establish procedures for the reconsideration of a ruling issued under this chapter. A request for reconsideration is timely if it is received within 30 days after the initial ruling was issued.

(d) An aggrieved party may appeal a final decision to the superior court.

**History** - (Sec. 5 ch 68 SLA 2000)

**Effective Date Notes** - Section 5, ch. 68, SLA 2000, which enacted this section, took effect on August 20, 2000.

#### **SEC. 14.25.040. MEMBERSHIP.**

(a) Unless a teacher or member has elected to participate in the optional university retirement program under AS 14.40.661 - 14.40.799 or has filed an election under AS 14.25.043(b), a teacher or member contracting for service with a participating employer is subject to this chapter.

(b) A state legislator who was an active member of this system under other sections of this chapter within the 12 months immediately preceding election to office may elect to be an active member of this system for as long as the state legislator serves continuously as a state legislator subject to the requirements of (c) of this section, if, within 90 days after taking the oath of office,

(1) the state legislator directs the employer in writing to

(A) pay into this system the employer contributions required for a member under this chapter; and

(B) deduct from the state legislator's salary and pay into this system

(i) the employee contributions required for a member under this chapter; and

(ii) an amount equal to the difference between the total employer and state contributions required for a member under this chapter and the employer contributions which would be required under the public employees' retirement system (AS 39.35) if the legislator were covered under that system; and

(2) notice is given the administrator in writing.

(c) A state legislator is not entitled to elect membership under (b) of this section if the state legislator is covered for the same period of service under the public employees' retirement system (AS 39.35). An election of membership under (b) of this section is retroactive to the date the state legislator took the oath of office. A state legislator may not receive membership credit under (b) of this section for legislative service performed before the legislative session during which the state legislator elected membership under (b) of this section. In order to continue in membership service under (b) of this section, the state legislator must earn at least 0.3 years of membership service under other sections of this chapter during each five-year period.

(d) A person who is employed at least half-time in the system during the same period that the person is employed at least half-time in a position in the public employees' retirement system under AS 39.35 shall receive credited service under each system for half-time employment. However, the amount of credited service a person receives under the public employees' retirement system during a school year may not exceed the amount necessary, when added to the amount of credited service earned during the school year under the system, to equal one year of credited service. A person who was employed at least half-time in a position in the public employees' retirement system under AS 39.35 in the same period that the person was employed at least half-time in a position in this system may claim credited service in both systems for employment before May 31, 1989. To obtain this credited service, the person shall claim the service and verify the period of half-time employment. When eligibility for half-time service credit has been established, an indebtedness shall be determined to the retirement system in which the person did not participate. The amount of the indebtedness is the full actuarial cost of providing benefits for the credited service claimed. Interest as prescribed by regulation accrues on that indebtedness beginning on the later of July 1, 1989, or the date on which the member is first eligible to claim the service. Any outstanding indebtedness existing at the time the person retires will require an actuarial adjustment to the benefits payable based on that service.

(e) A teacher who is assaulted while on the job, who files for benefits under AS 23.30, and who, as a result of a physical injury from the assault, is placed on leave without pay, whether or not the teacher is receiving benefits

under AS 23.30 for the injury, is entitled to accrue credited service while the teacher, because of the injury, is on leave-without-pay status or is receiving workers' compensation benefits under AS 23.30. Entitlement to earn credited service under this subsection ends when the teacher is eligible to receive benefits under AS 14.25.110(a) or 14.25.130(a).

**History** - (Sec. 5 ch 145 SLA 1955; am Sec. 1 ch 86 SLA 1963; am Sec. 1 ch 151 SLA 1966; am Sec. 1 ch 85 SLA 1971; am Sec. 1 ch 66 SLA 1973; am Sec. 1 ch 169 SLA 1976; am Sec. 1 ch 82 SLA 1979; am Sec. 1 ch 58 SLA 1989; am Sec. 1 ch 104 SLA 1989; am Sec. 1 ch 52 SLA 2000; am Sec. 2 ch 57 SLA 2001; am Sec. 4 ch 58 SLA 2001)

**Delayed Amendment** - of subsection (a). - Under Sec. 3 and 15, ch. 57, SLA 2001, and Sec. 5 and 13, ch. 58, SLA 2001, effective July 1, 2005, subsection (a) is amended to read as follows: ""(a) Unless a teacher or member has elected to participate in the optional university retirement program under AS 14.40.661 - 14.40.799, a teacher or member contracting for service with a participating employer is subject to this chapter.""

**Cross References** - For a provision relating to ch. 52, SLA 2000, which enacted (e) of this section, see sec. 7, ch. 52, SLA 2000 in the 2000 Temporary and Special Acts.

**Amendment Notes** - The 2000 amendment, effective August 9, 2000, added subsection (e).

The 2001 amendments, effective July 1, 2001, inserted "or has filed an election under AS 14.25.043(b)" in subsection (a).

## **SEC. 14.25.043. REEMPLOYMENT OF RETIRED MEMBERS.**

(a) If a retired member again becomes an active member, benefit payments may not be made during the period of reemployment unless the teacher makes an election under (b) of this section. The retirement benefit must be suspended for the entire school year if the teacher is reemployed as an active teacher for a period equivalent to a year of service. During the period of reemployment, the member is subject to AS 14.25.050 and deductions from the member's salary will be made in accordance with AS 14.25.050.

(b) A school district or regional educational attendance area that has adopted a policy that permits the employment of retired teachers in accordance with AS 14.20.135 shall notify the administrator that it is hiring retired teachers under AS 14.20.135. A teacher who retired under AS 14.25.110(a) and subsequently becomes an active member under a policy adopted in accordance with AS 14.20.135 may, within 30 days of the date of reemployment, elect to continue receiving benefit payments during the period of reemployment by filing a waiver of coverage with the administrator on a form provided by the

administrator. An election under this subsection waives coverage for the period of reemployment and is irrevocable during the period of reemployment. Deductions from the member's salary may not be made under AS 14.25.050 during the period of reemployment, and the member may not receive credited service for the period of reemployment. A member who participated in a retirement incentive program under ch. 26, SLA 1986; ch. 89, SLA 1989; ch. 65, SLA 1996; ch. 4, FSSLA 1996; or ch. 92, SLA 1997, is not eligible to make an election under this subsection.

(c) Upon subsequent retirement, the retired member is entitled to receive an additional benefit based on the credited service and the average base salary during the period of reemployment in accordance with AS 14.25.110. If the initial benefit payments to which the retired member is eligible have been actuarially reduced because the member retired early under AS 14.25.110(b), the member shall also receive an incremental benefit based on the amount of the actuarial reduction imposed by AS 14.25.110(j) on the first benefit and the length of time that the employee was reemployed and not receiving retirement benefits. The amount of the incremental benefit is equal to the difference between the normal retirement benefit to which the member would have been entitled had the member taken a normal retirement and the early retirement benefit that the member has been receiving based on the member's initial period of employment multiplied by the total number of months that the member did not receive retirement benefits because of reemployment and that amount actuarially adjusted to be paid over the expected lifetime of the member.

**History** - (Sec. 4 ch 13 SLA 1980; am Sec. 6 ch 68 SLA 2000; am Sec. 4 ch 57 SLA 2001; am Sec. 6 ch 58 SLA 2001)

**Delayed Amendment** - Under Sec. 5, 12, and 15, ch. 57, SLA 2001, and Sec. 7, 9, and 13, ch. 58, SLA 2001, effective July 1, 2005, subsection (b) is repealed and subsection (a) is amended to read as follows: "(a) If a retired member again becomes an active member, benefit payments may not be made during the period of reemployment. The retirement benefit must be suspended for the entire school year if the teacher is reemployed as an active teacher for a period equivalent to a year of service. During the period of reemployment, deductions from the member's salary will be made in accordance with AS 14.25.050."

**Amendment Notes** - The 2000 amendment, effective August 20, 2000, added the last two sentences.

The 2001 amendments, effective July 1, 2001, added subsection (b) and the subsection (a) and (c) designations; and in subsection (a), inserted "unless the teacher makes an election under (b) of this section" in the first sentence and "the member is subject to AS 14.25.050 and " in the second sentence.



#### **SEC. 14.25.045. PARTICIPATION BY NATIONAL EDUCATION ASSOCIATION EMPLOYEES.**

(a) An employee or former employee of the National Education Association of Alaska may participate in the system under this chapter if

(1) the employee or former employee possesses or is eligible to possess a teacher certificate under AS 14.20.020; and

(2) the employee or former employee of the National Education Association of Alaska pays all retroactive contributions required to be made under this chapter.

(b) For purposes of computing the period of time for which retroactive contributions may be due, an employee or former employee may count employment with the National Education Association of Alaska since July 1, 1956.

**History** - (Sec. 4 ch 99 SLA 1974; am Sec. 1 ch 98 SLA 1975; am Sec. 3 ch 106 SLA 1988)

#### **SEC. 14.25.047. PARTICIPATION BY SPECIAL EDUCATION SERVICE AGENCY EMPLOYEES.**

An employee of the Special Education Service Agency may participate in the system under this chapter if

(1) the employee possesses or is eligible to possess a teacher certificate under AS 14.20.020; and

(2) the employee pays all retroactive contributions required to be made under this chapter.

**History** - (Sec. 3 ch 112 SLA 1986)

**Revisors Notes** - In 1992, “system” was substituted for “retirement fund” to correct an error of omission in ch. 106, SLA 1988.

#### **SEC. 14.25.048. TEACHERS OF ALASKA NATIVE LANGUAGE AND CULTURE.**

(a) Except as provided in (d) of this section, an employee employed by a participating employer on or after June 5, 1988, shall participate in the system under this chapter if the employee

(1) teaches Alaska Native language or culture in a permanent full-time or permanent part-time position;

(2) learned about the subject to be taught by living in the culture or using the language in daily life; and

(3) is qualified to teach the subject to elementary or secondary students as required by regulations adopted by the Department of Education and Early Development.

(b) An employee or former employee may receive credit for retroactive membership service for employment before June 5, 1988 if the employee or former employee met the requirements listed in (a) of this section at the time of the employment. To receive credit for the retroactive membership service, the employee or former employee shall claim the service and pay the retroactive contributions required under AS 14.25.061. However, an employee or former employee may not receive retroactive credit under this subsection if the employee received credited service under AS 39.35 for the employment.

(c) An employee or former employee who received credit under AS 39.35 for service that qualifies under (a) of this section may elect to transfer those periods of employment to the system. To receive credit for retroactive membership service under this subsection, the employee or former employee shall claim the service and pay the retroactive contributions required under AS 14.25.061.

(d) Notwithstanding (a) of this section, an employee employed as a teacher of Alaska Native language and culture and participating in the Public Employees' Retirement System under AS 39.35 on the day before June 5, 1988 shall remain a member under AS 39.35 unless the employee elects to become a member of the Teachers' Retirement System on or before September 3, 1988.

**History** - (Sec. 4 ch 106 SLA 1988)

**Revisors Notes** - In 1999, in (a) of this section, "Department of Education" was changed to "Department of Education and Early Development" in accordance with Sec. 89, ch. 58, SLA 1999.

**Editors Notes** - Section 36, ch. 106, SLA 1988 provides: "If June 5, 1988 occurs during the interim between school terms, a person is considered to be employed on the day before June 5, 1988 if the person was employed by a participating employer on the last day of the school term immediately preceding the beginning of the interim and is employed by the employer on the first day of the school term immediately following the interim."

## **SEC. 14.25.050. CONTRIBUTIONS BY TEACHERS.**

(a) Except as provided in (c) of this section, beginning January 1, 1991, each teacher shall contribute to the system an amount equal to 8.65 percent of the teacher's base salary accrued from July 1 to the following June 30. The employer shall deduct the contribution from the teacher's salary at the end of each payroll period. The contributions shall be deducted from employee compensation before the computation of applicable federal taxes and shall be treated as employer contributions under 26 U.S.C. 414(h)(2). A member may not have the option of making the payroll deduction directly in cash instead of having the contribution picked up by the employer.

(b) Each teacher is entitled to receive credit for unrefunded contributions paid into the retirement fund of 1945.

(c) The employer of a teacher who, because of a physical injury caused by an on-the-job assault, is on unpaid leave of absence or is receiving benefits under AS 23.30 shall pay the teacher's contributions required by this section while the teacher is on unpaid leave or receiving the workers' compensation benefits.

(d) A teacher who is placed on leave of absence without pay because the teacher is unable to work due to an on-the-job injury or occupational illness for which the teacher is receiving benefits under AS 23.30 and for which the teacher is not entitled to credited service under AS 14.25.040(e) may elect to receive credited service for the time on leave of absence without pay status. When a teacher elects to receive credited service under this subsection, an indebtedness is established. The amount of the indebtedness is equal to the contributions that the teacher would have made if the teacher had been working. Interest as prescribed by regulation accrues on the indebtedness beginning on the date that the teacher returns to work or terminates employment. If there is an outstanding indebtedness at the time the teacher is appointed to retirement, benefits shall be actuarially adjusted.

**History** - (Sec. 6 ch 145 SLA 1955; am Sec. 4 ch 89 SLA 1960; am Sec. 3 ch 78 SLA 1962; am Sec. 1 ch 84 SLA 1969; am Sec. 1 ch 138 SLA 1970; am Sec. 1 ch 128 SLA 1977; am Sec. 5 ch 106 SLA 1988; am Sec. 1 ch 97 SLA 1990; am Sec. 2, 3 ch 52 SLA 2000; am Sec. 3 ch 59 SLA 2002)

**Revisors Notes** - Section 5, ch. 106, SLA 1988 amended (b) of this section to substitute "retirement system of 1945" for "retirement fund of 1945." The amendment was erroneous and inconsistent with other references in this chapter to the fund. That amendment is not, therefore, shown in the text of the subsection.

**Cross References** - For a provision relating to ch. 52, SLA 2000, which amended subsection (a) and enacted subsections (c) and (d), see sec. 7, ch. 52, SLA 2000 in the 2000 Temporary and Special Acts.

**Amendment Notes** - The 2000 amendment, effective August 9, 2000, added "Except as provided in (c) of this section" at the beginning of subsection (a) and added subsections (c) and (d).

The 2002 amendment, effective June 20, 2002, added the last sentence in subsection (a).

**Decisions** -Cited in *Casperson v. Alaska Teachers' Retirement Bd.*, 664 P.2d 583 (Alaska 1983).

## **SEC. 14.25.055. SUPPLEMENTAL CONTRIBUTIONS BY TEACHERS.**

If a teacher first joined the system before July 1, 1982, and is married or has a minor child and wishes to make a spouse or minor child eligible for a spouse's pension or a survivor's allowance, the teacher may elect to make a supplemental contribution of an additional one percent of the teacher's base salary within 90 days of the teacher's entry into participation in the system, or within 90 days of marriage, or within 90 days of the birth or adoption of a child dependent upon the teacher. Once an election is made under this section, supplemental contributions must be made whenever contributions are required under AS 14.25.050 unless the teacher executes a written waiver with the administrator. The execution of a waiver relinquishes all rights and benefits previously accrued under AS 14.25.162 and 14.25.164.

**History** - (Sec. 2 ch 151 SLA 1966; am Sec. 1 ch 45 SLA 1967; am Sec. 2 ch 84 SLA 1969; am Sec. 2 ch 138 SLA 1970; am Sec. 2 ch 66 SLA 1973; am Sec. 2 ch 128 SLA 1977; am Sec. 5 ch 13 SLA 1980; am Sec. 4 ch 137 SLA 1982)

## **SEC. 14.25.060. ARREARAGE INDEBTEDNESS.**

(a) If a member first joined the service before July 1, 1990, and has military service or Alaska Bureau of Indian Affairs (BIA) service, or if a member joined the system before July 1, 1978, and has creditable outside service, the member is indebted to the system as follows:

(1) At the time of first becoming a member of the system, the arrearage indebtedness is seven percent of the base salary multiplied by the total number of years of creditable outside, military, and Alaska BIA service. The administrator shall add compound interest at the rate prescribed by regulation to the arrearage indebtedness beginning July 1, 1963, or at the time the member

first becomes eligible to claim the service, whichever is later, to the date of payment or the date of retirement, whichever occurs first.

(2) If a member terminates from the system and is subsequently reemployed as a member, the arrearage indebtedness to the system for outside, military, or Alaska BIA service accumulated in the interim is seven percent of the base salary upon reentering membership service, multiplied by the number of years of interim outside, military, and Alaska BIA service. Compound interest at the rate prescribed by regulation shall be added to the arrearage indebtedness beginning July 1, 1963, or the date of reemployment as a member, whichever is later, to the date of payment or the date of retirement, whichever occurs first.

(b) If a member joins the system on or after July 1, 1978, and has creditable outside service, the member may claim this service. If claimed, the member is indebted to the system as follows:

(1) The arrearage indebtedness is the full actuarial cost of providing benefits for the service being claimed. Compound interest at the rate prescribed by regulation shall be added to the arrearage indebtedness beginning the date the actuarial cost is established to the date of payment or the date of retirement, whichever occurs first.

(2) If a member terminates from the system and is subsequently reemployed as a member, the arrearage indebtedness for outside service during the interim is the full actuarial cost of providing benefits for the interim service being claimed. Compound interest at the rate prescribed by regulation shall be added to the arrearage indebtedness beginning the date the actuarial cost is established to the date of payment or the date of retirement, whichever occurs first.

(c) The total military service claimed may not exceed five years. The combined total of outside and military service may not exceed 10 years, except that, if entry into the armed forces is immediately preceded by membership service and within one year after discharge is continued by membership service, that service may not be counted for purposes of determining the applicability of the 10-year limitation on the combined total of outside and military service.

(d) If a member first joined the system on or after July 1, 1990, and has military service or Alaska BIA service, the member's indebtedness shall be determined under (a) of this section except that the percentage multiplier is 8.65 percent.

**History** - (Sec. 7 ch 145 SLA 1955; am Sec. 3 ch 142 SLA 1957; am Sec. 5 ch 89 SLA 1960; am Sec. 2 ch 86 SLA 1963; am Sec. 11 ch 70 SLA 1964; am Sec. 3, 4 ch 151 SLA 1966; am Sec. 2 ch 76 SLA 1968; am Sec. 3, 4 ch 138 SLA 1970; am Sec. 3 ch 66 SLA 1973; am Sec. 3 ch 128 SLA 1977; am Sec. 14 ch 136 SLA 1978; am Sec. 6, 7 ch 13 SLA 1980; am Sec. 5, 75 ch 137 SLA 1982; am Sec. 1 ch 82 SLA 1986; am Sec. 6, 7 ch 106 SLA 1988; am Sec. 2, 3 ch 97 SLA 1990)

**Cross References** - For conversion of claimed BIA contract school service to BIA service, see Sec. 2, ch. 44, SLA 1992.

**AG Opinions** - In computing the amount of contributions for arrearages, teaching service in Alaska with the Bureau of Indian Affairs, a federal agency, is not “creditable membership service” such as will excuse the payment of arrearages for service prior to June 30, 1955, for participation in the teachers’ retirement plan. 1960 Op. Att’y Gen. No. 11.

Bureau of Indian Affairs teaching service should be treated as “outside service” for the purposes of computing “arrearages” and “creditable service” under provisions of the Teachers’ Retirement Act. 1960 Op. Att’y Gen. No. 11.

Regulations promulgated by the territorial or State Board of Education governing salaries are not germane to calculations of arrearage forgiveness or creditable service under the Teachers’ Retirement System. 1960 Op. Att’y Gen. No. 11.

## **SEC. 14.25.061. RETROACTIVE INDEBTEDNESS.**

(a) A member who was not subject to the provisions of this chapter, but who becomes subject to them because of a legislative change, may elect to receive credit for retroactive membership service by contributing to the system an amount equal to the contributions the member would have made had the member been subject to the provisions of this chapter for those years of retroactive service after June 30, 1955. Retroactive contributions are not required for retroactive membership service before July 1, 1955. Compound interest at the rate prescribed by regulation shall be added to the retroactive indebtedness from July 1, 1966, or the time of first becoming eligible under this chapter, whichever is later, to the date of payment or the date of retirement, whichever occurs first.

(b) If retroactive indebtedness contributions have been made for retroactive service before July 1, 1955, the member is entitled to a refund of those retroactive membership indebtedness contributions.

(c) A refund of retroactive indebtedness contributions for retroactive service before July 1, 1955 is not subject to the repayment provision of AS 14.25.062.

**History** - (Sec. 4 ch 128 SLA 1977; am Sec. 8, 9 ch 13 SLA 1980; am Sec. 8 ch 106 SLA 1988)

## **SEC. 14.25.062. REINSTATEMENT INDEBTEDNESS.**

A teacher who has received a refund of contributions in accordance with AS 14.25.150 is indebted to the system in the amount of the total refund. Compound interest at the rate prescribed by regulation shall be added to the reinstatement indebtedness from the date of the refund to the date of repayment or the date of retirement, whichever occurs first.

**History** - (Sec. 4 ch 128 SLA 1977; am Sec. 10 ch 13 SLA 1980; am Sec. 9 ch 106 SLA 1988)

## **SEC. 14.25.063. PAYMENT OF INDEBTEDNESS.**

(a) In this chapter, a member does not have to be reemployed under this system in order to make indebtedness payments. However, except as provided in (d) of this section, a former member must be reemployed under this system in order to make indebtedness payments. Payments apply first to accrued interest and then to principal.

(b) Any outstanding indebtedness that exists at the time a member is appointed to retirement will necessitate an actuarial adjustment to the benefits payable based on the member's corresponding service.

(c) If, as a result of service credit claimed for which there is a corresponding indebtedness existing at retirement, the member's retirement benefit is actuarially reduced and the resulting benefit is less than it would have been if the service credit had not been claimed, the retirement benefit shall be equal to the amount it would have been had the service credit never been claimed.

(d) A former member who received a total refund of the member's contribution account balance because of a levy under AS 09.38.065 or a federal tax levy may make indebtedness payments under this section.

**History** - (Sec. 11 ch 13 SLA 1980; am Sec. 6, 7 ch 137 SLA 1982; am Sec. 1, 2 ch 89 SLA 1988)

## **SEC. 14.25.065. TRANSMITTAL OF CONTRIBUTIONS.**

(a) All contributions deducted in accordance with AS 14.25.050 and 14.25.055 shall be transmitted to the system for deposit in the retirement fund no later than 15 days following the close of the payroll period, with the final contributions due for any school year transmitted no later than July 15.

(b) The contributions of employers under AS 14.25.070 must be transmitted to the system for deposit in the retirement fund at the close of each pay period. If the contributions are not submitted within 15 days of the close of each payroll

period, interest must be assessed on the outstanding contributions at one and one-half times the most recent actuarially determined rate of earnings for the system from the date that contributions were originally due. In addition, the amount of the contributions and interest may be deducted by the Department of Education and Early Development from the state funds due the school district and the amount so deducted transmitted to the system for deposit in the retirement fund. Amounts due from the University of Alaska and interest as prescribed in this section may be deducted by the commissioner of administration from any state funds due the University of Alaska and the amount deducted transmitted to the administrator for deposit in the retirement fund.

**History** - (Sec. 3 ch 84 SLA 1969; am Sec. 4 ch 66 SLA 1973; am Sec. 12 ch 13 SLA 1980; am Sec. 10 ch 106 SLA 1988)

**Revisors Notes** - In 1999, in (b) of this section, "Department of Education" was changed to "Department of Education and Early Development" in accordance with Sec. 89, ch. 58, SLA 1999.

#### **SEC. 14.25.070. CONTRIBUTIONS BY EMPLOYER.**

An employer shall contribute to the system an amount equal to the percentage, as certified by the administrator, of the sum total of the base salaries of all teachers that is required in addition to teacher contributions to provide the benefits of this chapter times the sum total of the base salaries paid to teachers, including any adjustments to contributions required by AS 14.25.173(a), by the employer.

**History** - (Sec. 8 ch 145 SLA 1955; am Sec. 5 ch 151 SLA 1966; am Sec. 5 ch 138 SLA 1970; am Sec. 5 ch 66 SLA 1973; am Sec. 22 ch 91 SLA 1987; am Sec. 11 ch 106 SLA 1988; am Sec. 4 ch 59 SLA 2002)

**Amendment Notes** - The 2002 amendment, effective June 20, 2002, inserted " , including any adjustments to contributions required by AS 14.25.173(a)," near the end of the section.

#### **SEC. 14.25.075. PURCHASE OF CREDITED SERVICE.**

(a) An employee who is eligible to purchase credited service under AS 14.25.047 or 14.25.048, a member who is eligible to purchase credited service under AS 14.25.060, 14.25.061, or 14.25.100, or a teacher who is eligible to purchase credited service under AS 14.20.345, AS 14.25.050, or 14.25.105 is a member for purposes of this section. A member, in lieu of making payments directly to the system, may elect to have the member's employer make payments as provided in this section.



(b) A member may elect to have the employer make payments for all or any portion of the amounts payable for the member's purchase of credited service through a salary reduction program as follows:

(1) the amounts paid under a salary reduction program are in lieu of contributions by the member making the election; the electing member's salary or other compensation shall be reduced by the amount paid by the employer under this section;

(2) the member shall make an election under this section to purchase credited service as permitted in AS 14.20.345, AS 14.25.047, 14.25.048, 14.25.050, 14.25.060, 14.25.061, 14.25.100, or 14.25.105 before the member's termination of employment; the election must specify the number of payroll periods that deductions will be made from the member's compensation and the dollar amount of deductions for each payroll period during the specified number of payroll periods;

(3) a member who makes an election under this section to have the employer make payments for less than all of the amounts payable for the member's purchase of credited service may subsequently elect to have the employer make payments for all or any portion of the remaining amounts payable for the member's purchase of credited service;

(4) [See editor's note] amounts paid by an employer under this section shall be treated as employer contributions for the purpose of determining tax treatment under 26 U.S.C. (Internal Revenue Code); the amounts paid by the employer under this section may not be included in the member's gross income for income tax purposes until those amounts are distributed by refund or retirement benefit payments.

(c) Unless otherwise provided, member contributions paid by the employer under this section are treated for all other purposes under the system in the same manner and to the same extent as member contributions that are not paid by an employer under this section and AS 14.25.050. The system may assess interest or administrative charges attributable to any salary reduction election made under this section. The interest or administrative charges shall be added to the contribution that is made to the system by the member each payroll period, and that is paid by the employer. The interest or administrative charges may not be treated as member contributions for any purposes under this chapter, and a member or a member's beneficiary does not have a right to the return of the interest or administrative charges under any other provision of this section. Interest assessed under this section shall be at the rate specified by regulations adopted by the board.

(d) For system fiscal years beginning on or after July 1, 2001, the requirements of AS 14.25.110(k) may not be applied to reduce the amount of credited service that may be purchased under this section by a member who first becomes an employee of the system before July 1, 2001, to an amount that is less than the amount of credited service allowed to be purchased with the application of any of the limits prescribed in 26 U.S.C. 415.

(e) Contributions to the system to purchase credited service under this section do not qualify for treatment under this section if recognition of that service would cause a member to receive a retirement benefit for the same service from the system and from one or more other retirement plans or systems of the state.

(f) To the extent that a payment under this section does not alter, amend, or revoke any one or more currently effective elections made by the employee, the board may accept employee contributions, which shall also be treated as employer contributions for the purpose of determining tax treatment under the Internal Revenue Code, for the payment for credited service purchases made under this section in whole or in part, by any one or a combination of the following methods:

(1) subject to the limitations prescribed in 26 U.S.C. 401(a)(3) and 26 U.S.C. 402(c), accepting eligible rollover distributions directly from one or more retirement programs of another employer that are qualified under 26 U.S.C. 401(a) or accepting rollovers directly from an employee;

(2) subject to the limitations prescribed in 26 U.S.C. 408(d)(3)(A)(ii), accepting from an employee conduit rollover contributions that are received by the employee from one or more conduit rollover individual retirement accounts previously established by the employee;

(3) subject to the limitations prescribed in 26 U.S.C. 403(b)(13), accepting direct trustee-to-trustee transfers of all or a portion of the accounts of the employee, on and after January 1, 2002, from a tax sheltered annuity described in 26 U.S.C. 403(b);

(4) subject to the limitations prescribed in 26 U.S.C. 457(e)(17), accepting direct trustee-to-trustee transfers of all or a portion of the accounts of the employee, on and after January 1, 2002, from an eligible deferred compensation plan of a tax-exempt organization or a state or local government described in 26 U.S.C. 457(b);

(5) accepting direct trustee-to-trustee transfer from an account established for the benefit of the member in AS 39.30.150 - 39.30.180 (Alaska Supplemental Annuity Plan).

(g) Payments made under this section shall be applied to reduce the member's outstanding indebtedness described in AS 14.25.063 at the time that the contributions are received by the system.

(h) If a member retires before all payments are made under this section, the system shall calculate the member's benefits based only on the payments actually made with respect to the credited service purchased.

(i) On satisfaction of the eligibility requirements of AS 14.20.345, AS 14.25.047, 14.25.048, 14.25.050, 14.25.060, 14.25.061, 14.25.100, or 14.25.105, the requirements of this section, and the administrative filing requirements specified by the board, the system shall adjust the member's credited service history and add any additional service credits acquired.

(j) After an election is made under this section, the election is binding on and irrevocable for the member and the member's employer during the member's remaining period of current employment. After a member makes an irrevocable election under this section, the member does not have the option of choosing to receive the contributed amounts directly in cash.

**History** - (Sec. 5 ch 59 SLA 2002)

**Effective Date Notes** - Section 50, ch. 59, SLA 2002 makes this section effective June 20, 2002, in accordance with AS 01.10.070(c).

**Editors Notes** - Under Sec. 48(a)(1), ch. 59, SLA 2002, paragraph (b)(4) applies "only after the Department of Administration receives favorable rulings . . . from the Internal Revenue Service that, under 26 U.S.C. 414(h)(2), the amounts paid by the employer will not be included in the member's gross income for income tax purposes until those amounts are distributable by refund or retirement benefit payment."

Section 49(d)(1), ch. 59, SLA 2002, provides that subsection (d) is retroactive to July 1, 2001. Section 49(e)(1), ch. 59, SLA 2002, provides that paragraphs (f)(3) and (4) are retroactive to January 1, 2002.

## **SEC. 14.25.080. CONTRIBUTIONS BY THE STATE. [REPEALED, SEC. 25 CH 91 SLA 1987].**

**Repealed or Renumbered.** The state legislature may appropriate to the retirement fund an amount equal to one-half the percentage, as certified by the administrator, of the amount required to provide the benefits of this chapter. It may be appropriated annually and deposited in the retirement fund monthly.

**SEC. 14.25.090. CONTRIBUTIONS BY THE STATE FOR  
ARREARAGES. [REPEALED, SEC. 7 CH 66 SLA  
1973].**

**Repealed or Renumbered**

**SEC. 14.25.100. CREDIT FOR SERVICE IN THE ARMED FORCES.**

(a) A member who served as an active member of the armed forces of the United States may receive credited service under this system up to a maximum of five years if the member received a discharge under other than dishonorable conditions and is not entitled to receive retirement benefits from the United States government for the same service. Each 12 months of military service equals one school year, and lesser military periods will be determined for credit purposes in a proportionate ratio to a year. Credit for service in the armed forces shall be granted only if the member makes contributions for the service in the same manner as required for outside service under AS 14.25.060. The military service credited under this section shall be included in the 10-year limitation of outside service as specified in AS 14.25.060, except if entry into the armed forces is immediately preceded by Alaska membership service and following discharge is continued by Alaska membership service within one year thereafter, service may not be counted for purposes of determining the applicability of the 10-year limitation on outside service.

(b) Where a member is unable to resume teaching in a public school within one year following discharge because of hospitalization, rehabilitation training, a disability derived while in the armed forces, or other like circumstances, the administrator shall determine the allowance or disallowance of any service in the armed forces.

(c) *[Repealed, Sec. 7 ch 155 SLA 1976].*

(d) *[Repealed, Sec. 7 ch 155 SLA 1976].*

(e) A member may not be credited with the same period of service in the armed forces under this section if credit for that military service was granted under the public employees' retirement system (AS 39.35). The combined period of military service claimed under this section and AS 39.35 may not exceed five years.

**History** - (Sec. 11 ch 145 SLA 1955; am Sec. 8 ch 89 SLA 1960; am Sec. 1 ch 57 SLA 1974; am Sec. 5, 7 ch 155 SLA 1976; am Sec. 5 ch 128 SLA 1977; am Sec. 13 ch 13 SLA 1980; am Sec. 4 ch 97 SLA 1990)

## **SEC. 14.25.105. CREDIT FOR SERVICE AS AN EMPLOYEE OF THE TERRITORY OF ALASKA.**

(a) A teacher who completes 15 years of membership service under this chapter may elect to receive credited service for employment rendered to the Territory of Alaska before January 3, 1959, regardless of the office, department, division or agency of the territory in which employed. Credited service allowed under this section may not exceed five years.

(b) A teacher may not be credited with service under this section if credit for service as an employee of the Territory of Alaska was granted for the same period under AS 39.35 (public employees' retirement system).

(c) A teacher who elects to receive credited service under this section for service to the Territory of Alaska shall make a retroactive contribution under this system for the period of territorial employment following June 30, 1955.

**History** - (Sec. 1 ch 146 SLA 1980)

## **SEC. 14.25.107. CREDIT FOR ALASKA BIA SERVICE.**

A member who joins the system on or after July 1, 1978, who has Alaska BIA service may claim all of that service as credited service. A retirement benefit payable under this chapter for Alaska BIA service shall be reduced by an amount equal to the retirement benefits paid to the member by the United States government for the same service.

**History** - (Sec. 8 ch 137 SLA 1982)

**Cross References** - For conversion of claimed BIA contract school service to BIA service, see Sec. 2, ch. 44, SLA 1992.

## **SEC. 14.25.110. RETIREMENT BENEFITS.**

(a) Subject to AS 14.25.167, a member is eligible for a normal retirement benefit if the member

(1) was first hired before July 1, 1975, has attained the age of 55 years, and has at least 15 years of credited service, the last five of which have been membership service or is otherwise vested in the system;

(2) has attained the age of 60 years and has at least eight years of membership service;

(3) has attained the age of 60 years, has at least five years of membership service, and has Alaska BIA service which, when added to the membership service, will equal at least eight years;

(4) has at least 25 years of credited service, the last five of which have been membership service;

(5) has at least 20 years of membership service;

(6) has at least 20 years of combined membership service and Alaska BIA service, the last five of which have been membership service; or

(7) has, for each of 20 school years,

(A) at least one-half year of membership service as a part-time teacher;

(B) one full year of membership service as a full-time teacher;  
or

(C) any combination of service qualified under this paragraph.

(b) Subject to AS 14.25.167, a member is eligible for an early retirement benefit upon completing the service requirements in (a)(1) of this section and attaining the age of 50 years or upon completing the service requirements in (a)(2) or (3) of this section and attaining the age of 55 years.

(c) The burden is on the applicant to prove eligibility for retirement benefits to the full satisfaction of the administrator.

(d) The monthly amount of a retirement benefit for a member who has paid the full amount of any indebtedness is one-twelfth of the member's average base salary during any three school years of membership service multiplied by

(1) two percent of the years of credited service earned before June 30, 1990, including credited fractional years, and the years of credited service through a total of 20 years; plus

(2) two and one-half percent of the years of credited service earned after June 30, 1990, that are more than 20 years of total credited service.

(e) The monthly amount of a retirement benefit must be determined in accordance with (d) of this section as it is in effect on the date of termination of the retiring member's last segment of employment.

(f) *[Repealed, Sec. 47 ch 59 SLA 2002]*. The annual amount of retirement benefits for a retiring member who was a member of the retirement system established by the Retirement Act of 1945 may not be less than \$975 plus 10 percent of the total contribution made by the member to the retirement fund of 1945.

(g) *[Repealed, Sec. 47 ch 59 SLA 2002]*. A member who is eligible for a service retirement salary under this chapter or under the Retirement Act of 1945 is entitled to a benefit of at least \$25 per month for each year of credited service, excluding adjustments made under AS 14.25.142 or 14.25.143. If the member elected option two under former AS 14.25.063(b)(2) for payment of any indebtedness when the member initially applied for a retirement benefit, or if the member elected to receive an early retirement benefit under (b) of this section, the resulting benefit reduction continues in effect.

(h) *[Repealed, Sec. 47 ch 59 SLA 2002]*. The monthly retirement benefit for a member who was receiving a retirement benefit on July 1, 1955, is \$50 a month if the member was at least 55 years of age on July 1, 1955.

(i) Benefits payable under this section accrue from the first day of the month after which all of the following requirements are met: (1) the member meets the eligibility requirements of this section; (2) the member terminates employment; and (3) the member applies for retirement. Benefits are not payable under this section during a school year in which credit for a full year of service is granted. The benefits are payable the last day of the month. If payment is delayed, a retroactive payment must be made for the month in which a benefit is payable under this section. The last payment shall be for the month in which the member dies or is no longer eligible for a benefit under this section.

(j) An actuarial adjustment must be made to benefits payable under (d) of this section for early retirement.

(k) Notwithstanding any other provision of this chapter, the projected annual benefit provided by this chapter and the benefit from all other defined benefit plans required to be aggregated with the benefits from this system under the provisions of 26 U.S.C. 415 may not increase to an amount in excess of the amount permitted under 26 U.S.C. 415 at any time. In the event that any projected annual benefit of a member exceeds the limitation of 26 U.S.C. 415 for a limitation year, the system shall take any necessary remedial action to correct an excess accrued benefit. The provisions of 26 U.S.C. 415, and the regulations adopted under that statute, as applied to qualified defined benefit plans of governmental employers are incorporated as part of the terms and conditions of the system. This subsection applies to any member of this system.

(l) Notwithstanding (d) of this section,

(1) for the system fiscal years beginning on or after January 1, 1996, the base salary of a member who joined the system after the first day of the first system fiscal year beginning after December 31, 1995, that is used to calculate the member's average base salary may not exceed \$150,000, as adjusted for the cost of living in accordance with 26 U.S.C. 401(a)(17)(B); and

(2) for system fiscal years beginning on or after January 1, 2002, the base salary of a member that is used to calculate the member's average base salary may not exceed \$200,000, as adjusted for the cost of living in accordance with 26 U.S.C. 401(a)(17)(B).

(m) Notwithstanding the definition of "base salary" in AS 14.25.220, in (l) of this section, for system fiscal years beginning on or after January 1, 1998, and for purposes of 26 U.S.C. 415(b)(3) and the regulations adopted under that statute,

(1) "base salary"

(A) includes any amount that is contributed by the employer under a salary reduction agreement and that is not includable in the member's gross income under 26 U.S.C. 125, 132(f)(4), 402(e)(3), 402(h), or 403(b); and

(B) is limited to compensation that is actually paid to a member during the determination period;

(2) "determination period" means the system fiscal year.

**History** - (Sec. 12 ch 145 SLA 1955; am Sec. 4 ch 142 SLA 1957; am Sec. 9 ch 89 SLA 1960; am Sec. 4 ch 86 SLA 1963; am Sec. 6 ch 151 SLA 1966; am Sec. 2 ch 85 SLA 1971; am Sec. 8 ch 66 SLA 1973; am Sec. 1 ch 77 SLA 1973; am Sec. 2 ch 57 SLA 1974; am Sec. 1 - 3 ch 173 SLA 1975; am Sec. 5 ch 169 SLA 1976; am Sec. 14 ch 13 SLA 1980; am Sec. 2 ch 146 SLA 1980; am Sec. 9 ch 137 SLA 1982; am Sec. 1 ch 81 SLA 1986; am Sec. 1, 2 ch 117 SLA 1986; am Sec. 22 ch 85 SLA 1988; am Sec. 1 ch 79 SLA 1990; am Sec. 5 - 8 ch 97 SLA 1990; am Sec. 7 ch 68 SLA 2000; am Sec. 6, 47 ch 59 SLA 2002)

**Amendment Notes** - The 2000 amendment, effective August 20, 2000, in paragraph (a)(3) substituted "has Alaska BIA service which, when added to the membership service, will equal at least eight years" for "has at least three years of Alaska BIA service."

The 2002 amendment, effective June 20, 2002, repealed subsections (f)-(h) and added subsections (k)-(m).



**Editors Notes** - In general, a person's right to benefits under the state's public employee retirement systems vests when the person joins the system. *Hammond v. Hoffbeck*, 627 P.2d 1052 (Alaska 1981). Therefore, former law may govern the benefits of some members of the teachers' retirement system. The user is advised to ascertain which version of the statute is applicable. Earlier versions of the statutes can be found in prior editions of the Alaska Statutes or in the published Session Laws of Alaska.

Subsection (g) refers to "option two under former AS 14.25.063(b)(2)." This option, which was repealed in ch. 137, SLA 1982, permitted a member to cancel the outstanding indebtedness by accepting an actuarially reduced annuity.

Section 49(b)(1), ch. 59, SLA 2002, provides that paragraph (1)(1) is retroactive to January 1, 1996. Section 49(e)(2), ch. 59, SLA 2002, provides that paragraph (1)(2) is retroactive to January 1, 2002. Section 49(c)(1), ch. 59, SLA 2002, provides that subsection (m) is retroactive to January 1, 1998.

**AG Opinions** - The legislature did not intend such a strict interpretation as to require a teacher to work the last 5 school years for the full 140-day year. 1966 Op. Att'y Gen. No. 2.

A teacher satisfies the requirement of subsection (a) by working any five creditable years or combination of fractional years totalling 5 years, as long as they are the last 5 years she worked and they are in membership service. 1966 Op. Att'y Gen. No. 2, issued prior to the 1975 amendment.

**Decisions** - Calculation of benefits pursuant to law of year of enrollment. - Retiree who first enrolled in the teachers' retirement system in 1969 was entitled to have his benefits calculated according to 1969 law and should have been allowed to include the lump-sum he received for accrual of unused leave during the three years used to calculate his average base salary. *Flisock v. State, Div. of Retirement & Benefits*, 818 P.2d 640 (Alaska 1991).

Applied in *Casperson v. Alaska Teachers' Retirement Bd.*, 664 P.2d 583 (Alaska 1983).

Cited in *Johnson v. Public Employees Retirement Bd.*, 848 P.2d 263 (Alaska 1993).

**Collateral Refs** - What constitutes "salary," "wages," "pay," or the like, within pension law basing benefits thereon. 91 ALR5th 225.

## **SEC. 14.25.115. UNUSED SICK LEAVE CREDIT.**

(a) A teacher in membership service on or after July 1, 1977, who is appointed to retirement on or after July 1, 1978, may elect to apply unused sick leave credit in computing the total number of years of credited service under AS 14.25.110(d) except for sick leave earned while participating in the optional university retirement program under AS 14.40.661 - 14.40.799. To obtain service credit for unused sick leave, a teacher must apply to the

administrator no later than one year after appointment to retirement. Unused sick leave shall be credited on a day-for-day basis in accordance with the table for service after July 1, 1969, contained in AS 14.25.220(45). Teacher contributions may not be required for credited unused sick leave.

(b) A teacher appointed to retirement before July 1, 1978, who returns to membership service on or after July 1, 1978, and is subsequently reappointed to retirement is eligible for unused sick leave credit only with respect to sick leave accrued during membership service on or after July 1, 1978.

(c) Benefits payable under this section accrue from the first day of the month after which all the following requirements are met: (1) the teacher meets the eligibility requirements of this section; (2) the teacher's written application for unused sick leave credit is received and verified by the administrator; and (3) a period of time has elapsed since the date of appointment to retirement equal to the amount of verified unused sick leave. Benefits are payable on the last day of the month.

**History** - (Sec. 13 ch 136 SLA 1978; am Sec. 29 ch 59 SLA 1982; am Sec. 10 ch 137 SLA 1982; am Sec. 2 ch 104 SLA 1989)

**Editors Notes** - In 2002, in subsection (a), "AS 14.25.220(45)" was substituted for "AS 14.25.220(43)" to reflect the 2002 renumbering of paragraphs in AS 14.25.220.

**Decisions** - Cited in *Casperson v. Alaska Teachers' Retirement Bd.*, 664 P.2d 583 (Alaska 1983).

## **SEC. 14.25.120. MANNER OF COMPUTING SERVICE RETIREMENT SALARY. [REPEALED, SEC. 50 CH 13 SLA 1980].**

**Repealed or Renumbered.** (a) Every teacher who has applied for retirement salary and who has satisfactorily shown his eligibility as provided in sec. 110 of this chapter, shall receive from the retirement fund, for each school year subsequent to the date of application, a retirement salary payable on the first day of each month, beginning the month following retirement.

(b) The payment made for the month in which death occurs is the last payment.

(c) The amount of retirement salary to be paid is computed as follows:

(1) If the teacher is eligible for normal retirement as of the date on which the application for a retirement salary is filed and has paid into the

retirement fund the full amount of his indebtedness, his annual retirement salary is two percent of his average base salary during any three of the last 10 years of membership service multiplied by the total number of years of creditable service, including credited fractional years.

(2) If, on the date of applying for retirement salary, the teacher has not paid the full amount of his indebtedness to the retirement fund, he may elect either:

(A) option one – to have any retirement salary which becomes due the teacher withheld until such time as the total amount withheld is equal to the outstanding indebtedness due the retirement fund; or

(B) option two – to cancel the outstanding indebtedness due the retirement fund by accepting a reduced annuity for life, computed by deducting 10 percent of the indebtedness still outstanding from the annual retirement salary that would be due and owing the teacher if there were no indebtedness.

(3) If option one under (c)(2) of this section is elected, the teacher, at a subsequent date, may pay into the retirement fund all or any part of the indebtedness still outstanding. However option two under (c)(2) of this section, after once being elected, is irrevocable.

(4) If the teacher is not eligible for normal retirement, but is eligible for early retirement, as defined in sec. 110(a) and (b) of this chapter, on the date when application for retirement salary is filed, his annual retirement salary is the amount that would be due and owing to the teacher if he were at least 55, reduced by the amount derived from the following computations: multiply one-half of one percent times the number of months, to the nearest month, by which applicant's attained age on the date of filing application falls short of 55 years, times the amount of annual retirements salary that would be due and owing the teacher if he were at least 55 years of age.

(5) If the teacher has any outstanding indebtedness to the fund on the date of applying for retirement salary, he may elect either option one or two in (c)(2) of this section. However, if he elects option two, the reduction as computed in (4) of this subsection shall be applied after deriving the adjusted retirement salary under option two.

(6) If the retiring teacher was a member of the retirement system established by the Retirement Act of 1945, his annual retirement salary shall in no case be less than \$975 plus 10 percent of the total contribution made by the teacher to the retirement fund of 1945.

(7) If a teacher, after receiving retirement salary, is reemployed as a full-time teacher in membership service, his retirement salary shall be suspended during the period of reemployment. The retirement salary shall be suspended for the entire school year if the teacher is reemployed as a full-time teacher in membership service for a period of time equivalent to a year of service.

(8) During a period of reemployment following retirement, deductions from salary may be made at the option of the teacher for contributions to the retirement fund as provided in sec. 50 of this chapter. If deductions are made, the annual amount of retirement salary shall be increased when the teacher again retires from active membership service, by adding the annual amount previously payable, an amount equal to two percent of the teachers' base salary for the period of reemployment. However, if the teacher has not attained the age of 55 on the date when payment of retirement salary is resumed, the additional amount provided for in this paragraph shall be reduced by the amount derived from the following computations: multiply one-half of one percent times the number of months, to the nearest month, by which the teacher's attained age on the date of subsequent retirement is short of 55 years, times the additional amount provided in this paragraph.

(d) A teacher who was receiving a service retirement salary on July 1, 1955, shall receive an additional \$50 a month for life, payable on the first day of each month, if the teacher was at least 55 years of age on July 1, 1955.

(e) Repealed.

(f) Repealed.

(g) A teachers who retired before July 1, 1971, with at least 25 years of creditable service, at least 15 of which were membership service, and who is entitled to a retirement salary under either this retirement fund or the retirement fund of 1945, shall receive a service retirement salary based on a minimum sum of \$20 per month for each year of creditable service, not including adjustments made under sec. 142 or sec. 143 of this chapter. A teacher who retired before July 1, 1971, with less than 25 years of creditable service, and who is entitled to a retirement salary under either this retirement fund or the retirement fund of 1945, shall receive a service retirement salary of at least \$20 per month for each year of credited service. If, on the date the teacher originally applied for retirement salary, the teacher elected option two as provided by (c)(2)(B) of this section as payment of his indebtedness, the amount of the dollar reduction shall remain in effect.

(h) A teacher who retires before July 1, 1972, shall receive a service retirement salary computed either under (c)(1) of this section, not including adjustments made under secs. 142 and 143 of this chapter, or under (g) of this

section, whichever computation would provide the teacher with the greater amount of service retirement salary. If, on the date the teacher originally applied for retirement salary, the teacher elected option two under (c)(2)(B) of this section as payment of his indebtedness or a reduced benefit under (c)(4) of this section, the amount of the dollar reduction shall remain in effect.

(i) Repealed.

#### **SEC. 14.25.125. CONDITIONAL SERVICE RETIREMENT BENEFITS.**

(a) Subject to AS 14.25.167, a member is eligible for a normal retirement salary at age 60 with at least

(1) two years membership service if the member also is eligible for a normal retirement benefit under the public employees' retirement system (AS 39.35); or

(2) one year of membership service if the member is a retired member of the public employees' retirement system.

(b) Subject to AS 14.25.167, a member is eligible for an early retirement salary at age 55 with at least

(1) two years of membership service if the member also is eligible for an early retirement benefit under the public employees' retirement system (AS 39.35);

(2) one year of membership service if the member is a retired member of the public employee' retirement system.

(c) Membership service for which contributions were refunded is not creditable under this section unless the refunded contributions have been repaid. For purposes of this section, a member or former member does not have to be reemployed under this system in order to repay refunded contributions. Compound interest at the rate prescribed by regulation must be added to the reinstatement indebtedness from the date of the refund to the date of repayment.

(d) The monthly amount of a conditional service retirement benefit shall be calculated on the years of credited service in accordance with AS 14.25.110(d), except that a member may irrevocably elect to substitute "average monthly compensation" as defined in AS 39.35.680 in place of the member's average base salary divided by 12.

(e) Benefits payable under this section accrue from the first day of the month (1) in which the member meets the eligibility requirements of this section,

(2) following the date of termination, and (3) following application for retirement, and are payable the last day of the month. If payment is delayed, a retroactive payment shall be made to cover the period of deferment. The last payment shall be made for the month in which the member dies or is no longer eligible for a benefit under this section.

**History** - (Sec. 2 ch 174 SLA 1978; am Sec. 15 ch 13 SLA 1980; am Sec. 11 ch 137 SLA 1982; am Sec. 3, 4 ch 117 SLA 1986; am Sec. 9, 10 ch 97 SLA 1990; am Sec. 7, 8 ch 59 SLA 2002)

**Amendment Notes** - The 2002 amendment, effective June 20, 2002, in subsections (a) and (b) added paragraph (2) and the paragraph (1) designation.

### **SEC. 14.25.130. DISABILITY BENEFITS.**

(a) A member who has five or more years of membership service is eligible for a disability pension if, after July 1, 1966, and before the member's normal retirement date, the member's employment is terminated because of a permanent disability as defined in AS 14.25.220.

(b) *[Repealed, Sec. 16 ch 13 SLA 1980]*. A teacher retired because of disability under this section who subsequently recovers from the disability is not entitled to any disability retirement salary from the first of the month following recovery.

(c) Once each year during the first five years following appointment to disability under this section, and once every three-year period thereafter, the administrator may require a disabled member who has not attained eligibility for normal retirement to undergo a medical or mental examination by a competent physician. The administrator shall suspend any disability benefit for a disabled member who refuses to undergo a physical or mental examination when requested under this section.

(d) The amount of the disability benefit is equal to 50 percent of the member's base salary immediately before becoming disabled. The disability benefit is increased by 10 percent of the member's base salary immediately before becoming disabled for each dependent child, up to a maximum of four dependent children.

(e) Benefits payable under this section accrue from the first day of the month after which the following requirements are met: (1) the member meets the eligibility requirements of this section; and (2) the member terminates employment. The benefits are payable the last day of the month. If payment is delayed, a retroactive payment must be made to cover the period of deferment. The last payment for a dependent child shall be for the month in which the

child ceases to be a dependent child. The last payment for the disabled member shall be made for the month in which the disabled member recovers from the disability, dies, or is eligible for normal retirement.

(f) A member is not entitled to a disability benefit under this section unless the member files a timely application for the benefit with the administrator. The application is timely if it is filed by the later of six months after the date that the member's disability began or 90 days after the termination of the member's employment. The board may waive a filing deadline under this subsection if there are extraordinary circumstances that resulted in the inability to meet the filing deadline. The board may delegate the authority to waive a filing deadline under this subsection to the administrator.

**History** - (Sec. 14 ch 145 SLA 1955; am Sec. 12 ch 89 SLA 1960; am Sec. 5 ch 86 SLA 1963; am Sec. 8 ch 151 SLA 1966; am Sec. 15 ch 66 SLA 1973; am Sec. 7 ch 173 SLA 1975; am Sec. 2 ch 169 SLA 1976; am Sec. 16 ch 13 SLA 1980; am Sec. 12 ch 137 SLA 1982; am Sec. 8, 9 ch 68 SLA 2000)

**Amendment Notes** - The 2000 amendment, effective August 20, 2000, inserted "of the member's base salary immediately before becoming disabled" in the second sentence in subsection (d) and added subsection (f).

**Editors Notes** - In general, a person's right to benefits under the state's public employee retirement systems vests when the person joins the system. *Hammond v. Hoffbeck*, 627 P.2d 1052 (Alaska 1981). Therefore, former law may govern the benefits of some members of the teachers' retirement system. The user is advised to ascertain which version of the statute is applicable. Earlier versions of the statutes can be found in prior editions of the Alaska Statutes or in the published Session Laws of Alaska.

**AG Opinions** - The disability retirement provisions of the Public Employees Retirement System and the Teachers' Retirement System are consistent with the federal Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. Sec. 621 - 634), and with the implementing regulations of the Equal Employment Opportunity Commission. December 10, 1992, Op. Att'y Gen.

**Decisions** - "Membership years." - Teachers' Retirement Board erred when it interpreted the term "membership years" in subsection (a) as being the equivalent of "years of service" as defined in AS 14.25.220. *Casperson v. Alaska Teachers' Retirement Bd.*, 664 P.2d 583 (Alaska 1983).

**SEC. 14.25.125. DEFERRED RETIREMENT BENEFIT.**  
**[REPEALED, SEC. 50 CH 13 SLA 1980]**

(a) A teacher is eligible for a deferred benefit if:

(1) he terminates his employment on or after the date on which his attained age and credited service total at least 70 years;

(2) he has completed at least 15 years of creditable service, the last five years of which have been in membership service; and

(3) he does not withdraw his contributions to the retirement fund.

(b) Payment of the deferred benefit shall begin on the first day of the month coinciding with or following the teacher's 55th birthday or the first day of the month in which his application for deferred benefit is filed with the administrator, whichever is later. The last payment shall be made as of the first day of the month in which the death of the retired teacher occurs.

(c) The monthly amount of a normal deferred benefit shall be determined in accordance with sec. 120 of this chapter as it is in effect on the date of his termination of employment, considering the teacher's credited service and compensation before his termination of employment. If his benefit begins before his normal retirement date, the benefit shall be reduced to the actuarial equivalent.

(d) A teacher is not entitled to a deferred benefit unless an application for it is filed with the administrator on or after the teacher reaches his early retirement date and before he attains his 70th birthday. If the application is received after his 55th birthday but on or before his 70th birthday, no retroactive payment may be made for the months preceding the month in which the application is received.

**SEC. 14.25.137 DEFERRED VESTED RETIREMENT BENEFIT.**  
**[REPEALED, SEC. 50 CH 13 SLA 1980].**

(A) A teacher is eligible for a deferred vested benefit if

(1) he terminates his employment after completing eight years of membership service; and

(2) he does not withdraw his contributions to the retirement fund.

(b) Payment of the deferred vested retirement benefit shall begin on the first day of the month coinciding with or next following the teacher's 55th birthday or the first day of the month in which his application for deferred



vested benefits is filed with the administrator, whichever is later. The last payment shall be made as of the first day of the month in which the death of the teacher occurs.

(c) The monthly amount of the deferred vested benefit shall be determined in accordance with sec. 120 of this chapter as it is in effect on the date of the teacher's termination of his employment, considering the teacher's credited service and compensation before his termination of employment. If his benefit begins before his normal retirement date, the benefit shall be reduced to the actuarial equivalent.

(d) An application for deferred vested benefit shall not be considered unless application is made on or after the teacher reaches his early retirement date and before he attains his 70th birthday.

**SEC. 14.25.138. NOTIFICATION OF INTENTION TO RETIRE.  
[REPEALED, SEC. 50 CH 13 SLA 1980].**

A teacher who will be eligible for a deferred benefit under section 135 of this chapter or a deferred vested benefit under section 137 of this chapter shall notify the administrator of his intention to retire. The administrator shall prescribe forms for the notification.

**SEC. 14.25.140. MANNER OF COMPUTING DISABILITY  
RETIREMENT SALARY. [REPEALED,  
SEC. 50 CH 13 SLA 1980]**

(a) A teacher who becomes disabled on or after July 1, 1966 and has applied for disability retirement salary shall receive from the retirement fund, during each year subsequent to the date of application and certification by the administrator under sec. 130 of this chapter, a disability retirement salary payable on the first day of each month, beginning the month following the disability.

(b) the payment made for the month in which the disabled teacher recovers from his disability, dies or attains eligibility for normal retirement constitutes the last payment.

(c) The amount of the disability retirement shall be equal to 50 percent of the teacher's base salary immediately before his becoming disabled. The disability retirement salary shall be increased by 10 percent of the teacher's base salary at the date of disability for each minor child, up to a maximum of four minor children, until the first day of the month in which the child ceases to be a minor child or the disability retirement salary terminates, whichever occurs first.

## **SEC. 14.25.142. COST-OF-LIVING ALLOWANCE.**

(a) While residing in the state, a person receiving a benefit under this chapter who is at least 65 years of age or who is receiving a disability benefit under this chapter is entitled to receive a monthly cost-of-living allowance in addition to the basic benefit. The amount of this allowance is 10 percent of the basic benefit.

(b) A person receiving a cost-of-living allowance under this section shall notify the administrator when the person expects to be absent from the state for a continuous period that exceeds 90 days. After that notification, the person is no longer entitled to receive the monthly cost-of-living allowance, except that a person may be absent from the state for not more than six months without loss of the cost-of-living allowance if the absence is the result of illness and required by order of a licensed physician. Upon return to the state, and upon notification to the administrator, the person is again entitled to receive the monthly cost-of-living allowance, commencing with the first monthly benefit payment made after notification of the person's return.

(c) In this section, "residing in the state" means domiciled and physically present in the State of Alaska. Being absent from the state for a continuous period of 90 days or less, or six months or less when ordered by a physician, does not change a person's status as "residing in the state."

History - (Sec. 10 ch 151 SLA 1966; am Sec. 18 ch 66 SLA 1973; am Sec. 6 ch 128 SLA 1977; am Sec. 2, 3 ch 82 SLA 1979; am Sec. 11 ch 97 SLA 1990)

**Editors Notes** - Section 17, ch. 82, SLA 1979 provides: "A person receiving benefits under AS 14.25 on July 1, 1979 is eligible for any increase in benefits resulting from the amendments to AS 14.25 enacted in Sec. 2 and 3 of ch. 82, SLA 1979."

**AG Opinions** - Regulation 2 AAC 36.210 is consistent with this statute. However, we also understand that the Teachers' Retirement System (TRS) has, prior to the adoption of the regulation, paid the COLA to benefit recipients whom TRS considered to be residents but who would not have met the 93183 days test. In light of that, we conclude that the regulation should only be applied to those joining TRS after its adoption. March 15, 1995, Op. Att'y Gen.

## **SEC. 14.25.143. POST RETIREMENT PENSION ADJUSTMENT.**

(a) Once each year, the administrator shall increase benefit payments to eligible disabled members, to persons age 60 or older receiving benefits under this system in the preceding calendar year, and to persons who have received

benefits under this system for at least eight years who are not otherwise eligible for an increase under this section.

(b) The increase in benefit payments applies to total benefit payments except for the cost-of-living allowance under AS 14.25.142. The amount of the increase is a percentage of the current benefit equal to

(1) the lesser of 75 percent of the increase in the cost of living in the preceding calendar year or nine percent, for recipients who on July 1 are at least 65 years old and for members receiving disability benefits; and

(2) the lesser of 50 percent of the increase in the cost of living in the preceding calendar year or six percent, for recipients who on July 1 are at least 60 but less than 65 years old or for recipients who on July 1 are less than 60 years old but who have received benefits from the system for at least eight years.

(c) If a recipient was not receiving benefits during the entire preceding calendar year, the increase in benefits under this section shall be adjusted by multiplying it by the fraction whose numerator is the number of months for which benefits were received in the preceding calendar year and whose denominator is 12.

(d) If at the time of first receiving a retirement benefit, a member was receiving a disability benefit under this system, the administrator shall, at the time the member is appointed to retirement, increase the retirement benefit by a percentage equal to the total cumulative percentage increase that has been applied to the member's disability benefit under this section.

(e) When computing a death benefit under AS 14.25.155, 14.25.157, or 14.25.160 or a survivor's benefit under AS 14.25.162, 14.25.164, or 14.25.167, adjustments granted to the deceased member or survivor under this section shall be included in the computation.

(f) An increase in benefit payments under this section is effective July 1 of each year and is based on the percentage increase in the consumer price index for urban wage earners and clerical workers for Anchorage, Alaska during the previous calendar year as determined by the United States Department of Labor, Bureau of Labor Statistics.

**History** - (Sec. 11 ch 151 SLA 1966; am Sec. 5 ch 86 SLA 1971; am Sec. 19 ch 66 SLA 1973; am Sec. 3 ch 99 SLA 1974; am Sec. 7 ch 128 SLA 1977; am Sec. 17 ch 13 SLA 1980; am Sec. 3 - 6 ch 146 SLA 1980; am Sec. 13 ch 137 SLA 1982; am Sec. 12 ch 106 SLA 1988; am Sec. 12 ch 97 SLA 1990)

**Editors Notes** - In general, a person's right to benefits under the state's public employee retirement systems vests when the person joins the system. *Hammond v. Hoffbeck*, 627 P.2d 1052 (Alaska 1981). Therefore, former law may govern the benefits of some members of the teachers' retirement system. The user is advised to ascertain which version of a particular statute is applicable. The version of this statute that was in effect immediately after the 1980 amendments read as follows:

"Sec. 14.25.143. POST RETIREMENT PENSION ADJUSTMENT. (a) When the administrator determines that the cost of living has increased and that the financial condition of the retirement fund permits, the administrator shall increase benefit payments to persons receiving benefits under this system.

"(b) The amount of the increase in benefit payments may not exceed the greater of "(1) the increase in the cost of living since the date of retirement; or "(2) four percent of the retirement benefit compounded for each year of retirement. "(c) The administrator shall implement this section by regulation.

"(d) A person receiving benefits under this chapter shall be granted a 10 per cent increase in the current base benefit if the person was receiving benefits on July 1, 1976. The increase shall be effective July 1, 1977.

"(e) If at the time of first receiving a retirement benefit a member was receiving a disability benefit, the administrator shall include the time during which the member received the disability benefit in determining the number of years of retirement under this section.

"(f) An increase in benefit payments under this section is effective July 1 of the year for which the increase is granted."

Section 48, ch. 146, SLA 1980 provides: "The retirement benefit payable to a member of the teachers' retirement system who is receiving a normal retirement benefit under AS 14.25.110 on July 1, 1980, and who at the time of his retirement was receiving a disability benefit under the teachers' retirement system, shall be increased by a percentage equal to the percentage of all post-retirement pension adjustments payable under AS 14.25.143 during the period that the member was receiving a disability benefit."

**Amendment Notes** - The 1982 amendment, effective July 1, 1982, substituted "lesser" for "greater" in the introductory language of subsection (b).

## **SEC. 14.25.145. INTEREST ON INDIVIDUAL ACCOUNTS.**

Interest shall be credited to each teacher's account at the end of each school year at the rate prescribed by regulation for that year.

**History** - (Sec. 16 ch 145 SLA 1955; am Sec. 6 ch 142 SLA 1957; am Sec. 4 ch 78 SLA 1962; am Sec. 7 ch 138 SLA 1970; am Sec. 20 ch 66 SLA 1973)

## **SEC. 14.25.150. REFUND UPON TERMINATION.**

(a) Except as provided in (b) of this section, a terminated member is entitled to a refund of the balance of the member contribution account. A member is not entitled to a refund of supplemental contributions except as provided in AS 14.25.160(a).

(b) A member who is terminated and is a vested member, deferred vested member, or who is entitled to benefits under AS 14.25.125, and who is married at the time of application for a refund or whose rights to a refund are subject to a qualified domestic relations order is entitled to receive a refund of the balance of the member contribution account only if the member's present spouse and each person entitled under the order consent to the refund in writing on a form provided by the administrator. The administrator may waive written consent from the person entitled under the order if the administrator determines that the person cannot be located or for other reasons established by regulation. The administrator may waive written consent from the spouse if the administrator determines that

(1) the member was not married to the spouse during any period of the member's employment with an employer;

(2) the spouse has no rights to benefits under this chapter because of the terms of a qualified domestic relations order;

(3) the spouse cannot be located;

(4) the member and spouse have been married for less than two years and the member establishes that they are not cohabiting; or

(5) another reason established by regulation exists.

**History** - (Sec. 16 ch 145 SLA 1955; am Sec. 6 ch 142 SLA 1957; am Sec. 4 ch 78 SLA 1962; am Sec. 7 ch 86 SLA 1963; am Sec. 12 ch 151 SLA 1966; am Sec. 5 ch 84 SLA 1969; am Sec. 21 - 23 ch 66 SLA 1973; am Sec. 8 ch 128 SLA 1977; am Sec. 14 ch 137 SLA 1982; am Sec. 5, 6 ch 117 SLA 1986)

## **SEC. 14.25.153. RIGHTS UNDER QUALIFIED DOMESTIC RELATIONS ORDER.**

A former spouse shall be treated as a spouse or surviving spouse under this chapter to the extent required by a qualified domestic relations order. Rights under the order do not take effect until the order is filed with the administrator.

**History** - (Sec. 7 ch 117 SLA 1986)

**Decisions** - Cited in *Laing v. Laing*, 741 P.2d 649 (Alaska 1987).

## **SEC. 14.25.155. NONOCCUPATIONAL DEATH BENEFITS.**

(a) If the death of a member occurs after completing less than one year of membership service and the proximate cause of death is not a bodily injury sustained or hazard undergone while in the performance and within the scope of the member's duties of employment, the member's designated beneficiary shall be paid the balance of the member contribution account.

(b) If the death of a member occurs after completing at least one year of membership service but before becoming a vested member, and the proximate cause of death is not a bodily injury sustained or hazard undergone while in the performance and within the scope of the member's duties of employment, the lump-sum death benefit described in AS 14.25.160(b) and (c) shall be paid to the designated beneficiary of the member.

(c) If the death of a vested member or deferred vested member occurs and the proximate cause of death is not a bodily injury sustained or hazard undergone while in the performance and within the scope of the member's duties of employment, the surviving spouse may elect to receive either the benefits described in (b) of this section or a 50 percent joint and survivor option as provided under AS 14.25.167(a)(2) based on credited service to the date of the member's termination. If no spouse survives a vested or deferred vested member, or if a person other than the spouse is designated as beneficiary in accordance with AS 14.25.166, the administrator shall pay the designated beneficiary the benefits described in AS 14.25.160(b) and (c). Benefits accrue from the first day of the month following the member's death and are payable the last day of the month.

(d) Benefits are not payable under this section if benefits are payable under AS 14.25.157, 14.25.160, 14.25.162, 14.25.164, or 14.25.167.

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**History** - (Sec. 15 ch 137 SLA 1982; am Sec. 8 ch 117 SLA 1986)

## **SEC. 14.25.157. OCCUPATIONAL DEATH BENEFITS.**

(a) If (1) the death of a member occurs before the member first attains eligibility for normal retirement, and (2) the proximate cause of death is a bodily injury sustained or hazard undergone while in the performance and within the scope of the member's duties of employment, and (3) the injury or hazard is not the proximate result of wilful negligence on the part of the member, the administrator shall pay a monthly survivor's pension equal to 40 percent of the member's base salary at the time of termination of employment, divided by 12, to the member's surviving spouse. If there is no surviving spouse, the administrator shall pay the monthly survivor's pension in equal parts to the dependent children of the member. On the date the normal retirement of the

member would have occurred if the member had lived, monthly payments must equal the monthly amount of the normal retirement benefit to which the member, had the member lived and continued employment until the member's normal retirement date, would have been entitled with an average base salary as existed at the member's death and the credited service to which the member would have been entitled. If the member does not have a spouse or dependent children at the time of death or if the member designates as beneficiary under AS 14.25.166 someone other than the surviving spouse or dependent children, the administrator shall pay the member's designated beneficiary those benefits available to a beneficiary under AS 14.25.160(b) and (c) and may not pay a benefit to the surviving spouse or dependent children.

(b) The first payment of the surviving spouse's pension or of a dependent child's pension shall accrue from the first day of the month following the member's death and is payable the last day of the month. The last payment shall be made for the last month in which there is an eligible surviving spouse or dependent child.

(c) Benefits are not payable under this section if benefits are payable under AS 14.25.155, 14.25.160, 14.25.162, 14.25.164, or 14.25.167.

(d) If a member's death is caused by an act of assault, assassination, or terrorism directly related to the person's status as a member, whether the act occurs on or off the member's job site, the death shall be considered to have occurred in the performance of and within the scope of the member's duties for purposes of (a)(2) of this section. If the expressed or apparent motive and intent of the perpetrator of the harm inflicted upon the member was due to the performance of the member's job duties or employment as a member, the death shall be considered to be directly related to the member's status as a member. A member's job duties are those performed within the course and scope of the member's employment with an employer.

**History** - (Sec. 15 ch 137 SLA 1982; am Sec. 9 ch 117 SLA 1986; am Sec. 1 ch 40 SLA 2002)

**Amendment Notes** - The 2002 amendment, effective September 5, 2002, added subsection (d).

## **SEC. 14.25.160. DEATH BENEFITS.**

(a) A death benefit shall be paid and any supplemental contributions shall be refunded to the designated beneficiary, upon receipt of a valid claim and proof of the death of a member who

(1) is not retired and is not eligible for benefits under AS 14.25.162 or 14.25.164; and

(2) either

(A) has made supplemental contributions under AS 14.25.055 since the date one year immediately preceding the member's death or since July 1, 1983, whichever is later; or

(B) is making supplemental contributions under AS 14.25.055 but has made them for less than one year.

(b) Upon the death of an active member who meets the conditions specified in (a) of this section, the amount of the death benefit is the sum of the following less any retirement benefit previously received by the member:

(1) the member contribution account;

(2) \$100 times the years of membership service;

(3) \$1,000; and

(4) \$500 if the deceased member is survived by one or more dependent children at the time of death and if the designated beneficiary is a dependent child of the member or is the parent or guardian of the dependent child of the member.

(c) If the sum of (b)(2) and (3) of this section exceeds \$3,000, only \$3,000 may be added to amounts under (b)(1) and (4) in calculating the death benefit under (b) of this section.

(d) Upon the death of an inactive member who meets the conditions specified in (a) of this section, the death benefit is the amount determined in (b)(1) of this section.

(e) Upon the death of a disabled member who is not eligible for normal retirement and who meets the conditions specified in (a) of this section, the death benefit is the amount determined in (b) of this section.

(f) Upon the death of a retired member who meets the conditions specified in (a) of this section, the death benefit is the amount determined in (b)(1) of this section less all retirement benefits paid to the deceased member.

(g) If supplemental contributions have been made under AS 14.25.055, benefits may be payable under AS 14.25.162 or 14.25.164 if the deceased member meets the eligibility requirements of one of those sections.



(h) Payment made to a beneficiary under this section is in place of any other benefit under this chapter.

**History** - (Sec. 17 ch 145 SLA 1955; am Sec. 7 ch 142 SLA 1957; am Sec. 13 ch 89 SLA 1960; am Sec. 5 ch 78 SLA 1962; am Sec. 13 - 15 ch 151 SLA 1966; am Sec. 6 ch 84 SLA 1969; am Sec. 18 ch 13 SLA 1980; am Sec. 16, 17 ch 137 SLA 1982; am Sec. 13 ch 106 SLA 1988)

## **SEC. 14.25.162. SURVIVOR'S ALLOWANCE.**

(a) If an active or disabled member dies and leaves a dependent child, and supplemental contributions have been made under AS 14.25.055 for at least one year of credited service, a survivor's allowance is payable under (b) of this section. If a retired member or a deferred vested member dies and leaves a dependent child, and supplemental contributions have been made under AS 14.25.055 for at least five years of credited service, a survivor's allowance is payable under (b) of this section. Application for the survivor's allowance must be made in writing to the administrator.

(b) A survivor's allowance is payable under this section as follows:

(1) an allowance of 10 percent of the member's base salary immediately before the member's death, retirement, or disability shall be paid for each dependent child; if there are four or more dependent children, the total amount paid to those children is 40 percent of the member's base salary before the member's death, retirement, or disability, paid in equal amounts to each child; the allowance shall be recomputed for the month in which the number of dependent children is less than four and the benefits shall be decreased accordingly; the adoption of a dependent child does not terminate the survivor's allowance payable under this section;

(2) an allowance of 35 percent of the member's base salary shall be paid to the member's surviving spouse as long as there is an eligible dependent child, as determined under (b)(1) of this section, for whom the surviving spouse is legally responsible; if there is no surviving spouse, an allowance of 10 percent of the member's base salary shall be paid to each court-appointed guardian, not to exceed one allowance for each child or for each group of children who have the same guardian or joint guardians;

(3) when no further benefits are payable under this section, the difference between the amount that would have been paid under AS 14.25.160 and any payments made to the member, spouse, guardian, or dependent children under this section shall be paid to those beneficiaries described in AS 14.25.166;

(4) benefits are not payable under this section if benefits are payable under AS 14.25.155, 14.25.157, 14.25.164, or 14.25.167.

(c) The survivor's allowance accrues from the first day of the month following the death of a member and is payable on the last day of the month. If payment is delayed, a retroactive payment must be made for the month in which a benefit is payable under this section. The last payment is for the month in which a benefit is payable under this section.

**History** - (Sec. 16 ch 151 SLA 1966; am Sec. 7 - 9 ch 84 SLA 1969; am Sec. 11, 12 ch 138 SLA 1970; am Sec. 15 ch 32 SLA 1971; am Sec. 1 ch 52 SLA 1972; am Sec. 24, 25 ch 66 SLA 1973; am Sec. 9, 10, 55 ch 128 SLA 1977; am Sec. 19 ch 13 SLA 1980; am Sec. 18, 19 ch 137 SLA 1982; am Sec. 14 ch 106 SLA 1988)

**Editors Notes** - In general, a person's right to benefits under the state's public employee retirement systems vests when the person joins the system. *Hammond v. Hoffbeck*, 627 P.2d 1052 (Alaska 1981). Therefore, former law may govern the benefits of some members of the teachers' retirement system. The user is advised to ascertain which version of the statute is applicable. Earlier versions of the statutes can be found in prior editions of the Alaska Statutes or in the published Session Laws of Alaska.

#### **SEC. 14.25.163. ROLLOVER DISTRIBUTIONS AND ROLLOVER CONTRIBUTIONS.**

(a) A distributee may elect, at the time and in the manner prescribed by the administrator, to have all or part of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in the direct rollover.

(b) Except as provided by AS 14.25.075(f)(5), the system does not accept contributions of eligible rollover distributions.

(c) In this section,

(1) "direct rollover" means the payment of an eligible rollover distribution by the system to an eligible retirement plan specified by a distributee who is eligible to elect a direct rollover;

(2) "distributee" means a member or a beneficiary who is the surviving spouse of the member;

(3) "eligible retirement plan"

(A) means

(i) an individual retirement account described in 26 U.S.C. 408(a);

(ii) an individual retirement annuity defined in 26 U.S.C. 408(b);

(iii) an annuity plan described in 26 U.S.C. 403(a);

(iv) a qualified trust described in 26 U.S.C. 401(a);

(v) on and after January 1, 2002, an annuity plan described in 26 U.S.C. 403(b); or

(vi) on or after January 1, 2002, a governmental plan described in 26 U.S.C. 457(b); and

(B) notwithstanding (A) of this paragraph, means, with respect to distributions made before January 1, 2002, an individual retirement account or an individual retirement annuity account described or defined in 26 U.S.C. 408 in the case of an eligible rollover distribution to a beneficiary who is the surviving spouse of a member;

(4) “eligible rollover distribution” means a distribution of all or part of a total account to a distributee, except for

(A) a distribution that is one of a series of substantially equal installments payable not less frequently than annually over the life expectancy of the distributee or the joint and last survivor life expectancy of the distributee and the distributee’s designated beneficiary, as defined in 26 U.S.C. 401(a)(9);

(B) a distribution that is one of a series of substantially equal installments payable not less frequently than annually over a specified period of 10 years or more;

(C) a distribution that is required under 26 U.S.C. 401(a)(9);

(D) the portion of any distribution that is not includable in gross income;

(E) a distribution made on or after January 1, 2002, that is on account of hardship; and

(F) other distributions that are reasonably expected to total less than \$200 during a year.

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**History** - (Sec. 9 ch 59 SLA 2002)

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**Effective Date Notes** - Section 50, ch. 59, SLA 2002 makes this section effective June 20, 2002, in accordance with AS 01.10.070(c).

## **SEC. 14.25.164. SPOUSE'S PENSION.**

(a) If an active or disabled member dies, a pension is payable to the member's spouse if the member made supplemental contributions under AS 14.25.055 for at least one year of credited service. If a retired member or deferred vested member dies, a pension is payable to the member's spouse if the member made supplemental contributions under AS 14.25.055 for at least five years of credited service. Application for the spouse's pension must be made in writing to the administrator.

(b) A spouse's pension is payable under this section as follows:

(1) a spouse's pension is equal to 50 percent of the retirement benefit that the deceased member was receiving; if the member was not receiving a retirement benefit, the spouse's pension is equal to 50 percent of the amount the member would have received, based on the member's average base salary and credited service to the date of the member's death and assuming that the member would have been eligible for a normal retirement benefit as of that date;

(2) in the event of the death of a member's spouse who is receiving a spouse's pension, the difference between the amount that would have been paid under AS 14.25.160 and any payments made to the member, spouse, guardian, or dependent children shall be paid to those beneficiaries described in AS 14.25.166;

(3) benefits are not payable under this section if benefits are payable under AS 14.25.155, 14.25.157, 14.25.162, or 14.25.167.

(c) The spouse's pension accrues from the first day of the month following the death of a member and is payable on the last day of the month. If payment is delayed, a retroactive payment must be made for the month in which a benefit is payable under this section. The last payment is for the month in which the spouse dies.

**History** - (Sec. 17 ch 151 SLA 1966; am Sec. 10 - 12 ch 84 SLA 1969; am Sec. 19 ch 69 SLA 1970; am Sec. 26 - 28 ch 66 SLA 1973; am Sec. 11 ch 173 SLA 1975; am Sec. 11 ch 128 SLA 1977; am Sec. 20 ch 13 SLA 1980; am Sec. 20 ch 13 SLA 1982; am Sec. 15 ch 106 SLA 1988)

**Editors Notes** - In general, a person's right to benefits under the state's public employee retirement systems vests when the person joins the system. *Hammond v. Hoffbeck*, 627 P.2d 1052 (Alaska 1981). Therefore, former law may govern the benefits of some members of the teachers' retirement system. The user is advised to ascertain which version of the statute is applicable. Earlier versions of the statutes can be found in prior editions of the Alaska Statutes or in the published Session Laws of Alaska.

## **SEC. 14.25.165. DISTRIBUTION REQUIREMENTS.**

(a) The entire interest of a member must be distributed or must begin to be distributed not later than the member's required beginning date.

(b) If a member dies after the distribution of the member's interest has begun but before the distribution has been completed, the remaining portion of the interest shall continue to be distributed at least as rapidly as under the method of distribution being used before the member's death.

(c) If a member has made a distribution election and dies before the distribution of the member's interest begins, distribution of the member's entire interest shall be completed by December 31 of the calendar year containing the fifth anniversary of the member's death. However, if any portion of the member's interest is payable to a designated beneficiary, distributions may be made over the life of the designated beneficiary or over a period certain not greater than the life expectancy of the designated beneficiary, commencing on or before December 31 of the calendar year immediately following the calendar year in which the member died, and, if the designated beneficiary is the member's surviving spouse, the date distributions are required to begin may not be earlier than the later of December 31 of the calendar year (1) immediately following the calendar year in which the member died, or (2) in which the member would have attained 70 1/2 years of age, whichever is earlier. If the surviving spouse dies after the member but before payments to the spouse have begun, the provisions of this subsection apply as if the surviving spouse were the member. An amount paid to a child of the member will be treated as if it were paid to the surviving spouse if the amount becomes payable to the surviving spouse when the child reaches the age of majority.

(d) If a member has not made a distribution election before the member's death, the member's designated beneficiary must elect the method of distribution not later than December 31 of the calendar year (1) in which distributions would be required to begin under this section, or (2) that contains the fifth anniversary of the date of death of the member, whichever is earlier. If the member does not have a designated beneficiary or if the designated beneficiary does not elect a method of distribution, distribution of the member's entire interest must be completed by December 31 of the calendar year containing the fifth anniversary of the member's death.

(e) For purposes of (c) of this section, distribution of a member's interest is considered to begin (1) on the member's required beginning date, or (2) if the designated beneficiary is the member's surviving spouse and the surviving spouse dies after the member but before payments to the spouse have begun, on the date distribution is required to begin to the surviving spouse. If

distribution in the form of an annuity irrevocably commences to the member before the required beginning date, the date distribution is considered to begin is the date that the distribution actually commences.

(f) Notwithstanding any contrary provisions of this chapter, the requirements of this section apply to all distributions of a member's interest and take precedence over any inconsistent provisions of this chapter.

(g) All distributions required under this section are determined and made in accordance with 26 U.S.C. 401(a)(9) and regulations adopted under that statute, including any minimum distribution incidental benefit requirement.

(h) Unless otherwise specified, the provisions of this section apply to calendar years beginning on or after January 1, 1989.

(i) In this section,

(1) "designated beneficiary" means the individual who is designated as the beneficiary under the system in accordance with 26 U.S.C. 401(a)(9) and regulations adopted under that statute;

(2) "required beginning date" means the first day of April of the calendar year following the calendar year in which the member either attains 70 1/2 years of age or actually retires, whichever is later.

**History** - (Sec. 10 ch 59 SLA 2002)

**Effective Date Notes** - Section 50, ch. 59, SLA 2002 makes this section effective June 20, 2002, in accordance with AS 01.10.070(c).

**Editors Notes** - Section 49(a)(1), ch. 59, SLA 2002, provides that this section is retroactive to January 1, 1989.

## **SEC. 14.25.166. DESIGNATION OF BENEFICIARY.**

(a) Each member shall designate the beneficiary or beneficiaries to whom the administrator shall distribute benefits payable under this chapter as a consequence of the member's death. Notwithstanding a previous designation of beneficiary, a person who is the spouse of a member at the time of the member's death automatically becomes the designated beneficiary if the spouse was married to the member during part of the member's employment for an employer

(1) except to the extent a qualified domestic relations order filed with the administrator provides for payment to a former spouse or other dependent of the member; or

(2) unless the member filed a revocation of beneficiary accompanied by a written consent to the revocation from the present spouse and each person entitled under the order; however, consent of the present spouse is not required if the member and the present spouse had been married for less than two years on the date of the member's death and if the member established when filing the revocation that the member and the present spouse were not cohabiting.

(b) Except as provided in (a) of this section, the member may change or revoke the designation without notice to the beneficiary or beneficiaries at any time. If a member designates more than one beneficiary, each shares equally unless the member specifies a different allocation or preference. The designation of a beneficiary, a change or revocation of a beneficiary, and a consent to revocation of a beneficiary shall be made on a form provided by the administrator and is not effective until filed with the administrator.

(c) If a member fails to designate a beneficiary, or if no designated beneficiary survives the member, the death benefit shall be paid

(1) to the surviving spouse or, if there is none surviving,

(2) to the surviving children in equal parts or, if there are none surviving,

(3) to the surviving parents in equal parts or, if there are none surviving,

(4) to the estate.

(d) A person claiming entitlement to benefits payable under this chapter as a consequence of a member's death shall provide the administrator with a marriage certificate, divorce or dissolution judgment, or other evidence of entitlement. Documents establishing entitlement may be filed with the administrator immediately after a change in the member's marital status. If the administrator does not receive notification of a claim before the date 10 days after the member's death, the person claiming entitlement is not entitled to receive from the division of retirement and benefits any benefit already paid by the administrator.

**History** - (Sec. 21 ch 137 SLA 1982; am Sec. 10 - 12 ch 117 SLA 1986)

## **SEC. 14.25.167. JOINT AND SURVIVOR OPTION.**

(a) Benefits payable under this section are in place of benefits payable under AS 14.25.110, 14.25.125, 14.25.155, 14.25.157, 14.25.160, 14.25.162, or 14.25.164. Upon filing an application for retirement with the administrator, or when a disabled member becomes eligible for normal retirement under AS 14.25.130(e), the member shall designate the person who is the member's spouse

at the time of appointment to retirement as the contingent beneficiary. However, if the designation of the spouse is revoked under (c) of this section, the member may designate a dependent approved by the administrator as the contingent beneficiary or may take normal or early retirement under AS 14.25.110 or 14.25.125. The administrator shall pay benefits under the option elected by the member. The member may elect an option that provides that

(1) the member is entitled to receive a reduced benefit payable for life, and, after the member's death, the contingent beneficiary is entitled to receive payments in the amount of 75 percent of the reduced benefit for life;

(2) the member is entitled to receive a reduced benefit payable for life, and, after the member's death, the contingent beneficiary is entitled to receive payments in the amount of 50 percent of the reduced benefit for life; or

(3) the member is entitled to receive a reduced benefit payable during the joint lifetime of the member and the contingent beneficiary, and, after the death of either the member or the contingent beneficiary, the survivor is entitled to receive payments in the amount of  $66\frac{2}{3}$  percent of the reduced benefit for life.

(b) The aggregate of the pension payments expected to be paid to a member and the member's contingent beneficiary under the options set out in (a) of this section shall be the actuarial equivalent of the pension that the member is otherwise entitled to receive upon retirement.

(c) A member may elect or change an option without the approval of the administrator if the member's election or change is filed in writing with the administrator before the effective date of the member's retirement. A member may revoke a joint and survivor option if the member files with the administrator before the effective date of the member's retirement a revocation and a consent to the revocation signed by the member's present spouse and each person entitled to benefits under a qualified domestic relations order on forms provided by the administrator. The administrator may waive the requirement for written consent from

(1) a person entitled under the order if the person cannot be located or for another reason established by regulation; or

(2) the spouse if

(A) the member is not married;

(B) the member was not married to the spouse during any period of the member's employment with an employer;



(C) the spouse has no rights to the option because of the terms of a qualified domestic relations order;

(D) the spouse cannot be located;

(E) the member and spouse have been married for less than two years and the member establishes that they are not cohabiting; or

(F) another reason is established under regulations of the administrator.

(d) A member, including a deferred vested member, may, regardless of age, elect a joint and survivor option any time before appointment to receive a retirement benefit.

(e) If either the member or contingent beneficiary dies before the member is appointed to retirement, the election becomes inoperative. Once the member is appointed to retirement, the election is irrevocable, even if the retired member is reemployed. Any additional retirement benefit to which the reemployed member may become entitled will be paid in accordance with the initial election made under this section, unless the contingent beneficiary is deceased. If the contingent beneficiary is deceased, the benefits earned during the period of reemployment are subject to AS 14.25.110, or this section if another contingent beneficiary was designated during the period of reemployment. All other benefits earned during previous periods of employment are subject to the election at the time the member was appointed to retirement. If death occurs during the period of reemployment and the proximate cause of death is not a bodily injury sustained or hazard undergone while in the performance and within the scope of the member's duties of employment, those benefits earned while reemployed are subject to AS 14.25.155(c). All other benefits earned during previous periods of employment are subject to the election at the time the member was appointed to retirement. If death occurs during the period of reemployment and the proximate cause of death is a bodily injury sustained or hazard undergone while in the performance and within the scope of the member's duties of employment and the injury or hazard is not the proximate result of wilful negligence on the part of the member, all benefits earned during all periods of employment are subject to AS 14.25.157.

(f) The member and any person claiming to be a contingent beneficiary shall file with the administrator a marriage certificate, divorce or dissolution judgment, or other evidence necessary to determine the applicability of this section and the identity of any contingent beneficiary.

(g) If the administrator determines, based on the affidavit of the member and other evidence, that a member is eligible to elect a form of payment other

than a joint and survivor option under this section, and no contrary evidence is presented to the administrator within 60 days after the effective date of the member's retirement, no claim under this section, made by a spouse or former spouse of the member, may be paid if payment would result in an increase in actuarial liability to the system.

(h) If a member fails to elect an option under (a) of this section and no effective revocation is filed with the administrator, the member is considered to have elected the option provided in (a)(2) of this section.

**History** - (Sec. 21 ch 137 SLA 1982; am Sec. 13 - 15 ch 117 SLA 1986)

## **SEC. 14.25.168. MEDICAL BENEFITS.**

(a) Except as provided in (c) of this section, the following persons are entitled to major medical insurance coverage if a benefit recipient elects coverage under this section:

(1) a person receiving a monthly benefit from the system;

(2) the spouse of a person receiving a monthly benefit from the system;

(3) a natural or adopted child of a person receiving a monthly benefit, if the child is a dependent child as defined in AS 14.25.220.

(b) After an election of coverage under this section, major medical insurance coverage takes effect on the same date as retirement benefits begin and stops when the member or survivor is no longer eligible to receive a monthly benefit. The coverage for persons age 65 or older is the same as that available for persons under age 65. The benefits payable to those persons age 65 or older supplement any benefits provided under the federal old age, survivors and disability insurance program. The medical premium and optional insurance premiums owed by a member or survivor shall be deducted from the benefit owed to the member or survivor before payment of the benefit.

(c) Receipt under a qualified domestic relations order of a monthly benefit from the system does not entitle a person or the person's spouse or child to insurance coverage under (a) of this section. However, a member's former spouse who receives a monthly benefit under a qualified domestic relations order is entitled to receive major medical insurance coverage if the former spouse

(1) elects the coverage within 60 days after the first monthly benefit paid under the order is mailed first class or otherwise delivered; and

(2) pays the premium established by the administrator for the coverage.

(d) A benefit recipient may elect major medical insurance coverage in accordance with regulations and under the following conditions:

(1) a person who has less than 25 years of membership service and who is younger than 60 years of age must pay an amount equal to the full monthly group premium for retiree major medical insurance coverage;

(2) a disabled member, a disabled member who is appointed to normal retirement, a person 60 years of age or older, or a person who has at least 25 years of membership service is not required to make premium payments.

(e) The administrator shall inform members who have requested appointment to retirement that the health insurance coverage available to retired members may be different from the health insurance coverage provided to employees. The administrator shall also notify those members of time limits for selecting optional health insurance coverage and whether the election is irrevocable. A member who has requested appointment to retirement shall indicate in writing on a form provided by the administrator that the member has received the information required by this subsection and whether the member has chosen to receive optional health insurance coverage.

**History** - (Sec. 18 ch 151 SLA 1966; am Sec. 1 ch 200 SLA 1975; am Sec. 22 ch 137 SLA 1982; Sec. 16, 17 ch 117 SLA 1986; am Sec. 13 - 15 ch 97 SLA 1990; am Sec. 1 ch 14 SLA 1992; am Sec. 10 ch 68 SLA 2000; am Sec. 6 ch 57 SLA 2001; am Sec. 8 ch 58 SLA 2001)

**Revisors Notes** - In 1984, the word “under” was inserted in the last sentence of subsection (b) to correct a manifest error of omission in Sec. 22, ch. 137, SLA 1982.

**Amendment Notes** - The 1992 amendment, effective July 28, 1992, added subsection (e).

The 2000 amendment, effective August 20, 2000, added the last sentence in subsection (b).

The 2001 amendments, effective July 1, 2001, rewrote subsection (d).

**Editors Notes** - In general, a person’s right to benefits under the state’s public employee retirement systems vests when the person joins the system. *Hammond v. Hoffbeck*, 627 P.2d 1052 (Alaska 1981). Therefore, former law may govern the benefits of some members of the teachers’ retirement system. The user is advised to

ascertain which version of the statute is applicable. Earlier versions of the statutes can be found in prior editions of the Alaska Statutes or in the published Session Laws of Alaska.

**Decisions** - Construction with Human Rights Act. - This section does not evince the intent by the legislature to allow an employer to discriminate on the basis of an employee's marital status in the provision of health insurance plans. *University of Alaska v. Tumeo*, 933 P.2d 1147 (Alaska 1997).

## **SEC. 14.25.169. DUPLICATE BENEFITS.**

If payments from this retirement system are due to a teacher or to the teacher's spouse under more than one provision of this plan, the teacher or spouse shall elect under which provision and which benefit the teacher or spouse wishes to receive and no payments may be made under any other provision. However, benefits under AS 14.25.155, 14.25.157, 14.25.160, 14.25.162, 14.25.164, and 14.25.167 shall be paid in addition to those benefits or that service credit a person is entitled to receive because of the person's own membership in the retirement system. A teacher may not receive (1) duplicate credit under this system for the same period of service, (2) more than one year of service credit in the course of a school year, or (3) a benefit while accruing service credit under this system, except as provided in this section.

**History** - (Sec. 19 ch 151 SLA 1966; am Sec. 2 ch 184 SLA 1972; am Sec. 23 ch 137 SLA 1982)

## **SEC. 14.25.170. ADMINISTRATION.**

The commissioner of administration is responsible for the administration of the retirement system and for making the provisions of this chapter effective. The powers and duties of the commissioner for this purpose include

- (1) maintaining the accounts of the system;
- (2) making payments for the various purposes specified;
- (3) submitting required periodic reports or statements of account;

(4) establishing by regulation the rate of interest that shall be credited to the individual contribution accounts of teachers each year; the rate of interest shall be adopted on the basis of the probable effective rate of interest on a long-term basis, and the rate may be changed from time to time by subsequent regulation;

(5) establishing a teachers' retirement trust fund in which the assets of the system shall be deposited and held; and

(6) engaging an independent certified public accountant to conduct an annual audit of the system's accounts and the annual report of the system's financial condition and financial activity.

**History** - (Sec. 14 ch 89 SLA 1960; am Sec. 6 ch 78 SLA 1962; am Sec. 3 ch 141 SLA 1988)

## **SEC. 14.25.173. ADJUSTMENTS.**

(a) When a change or error is made in the records maintained by the system or in the contributions made on behalf of an employee or an error is made in computing a benefit, and, as a result, a teacher or member or beneficiary is entitled to receive from the system more or less than the teacher or member or beneficiary would have been entitled to receive had the records or contributions been correct or had the error not been made, (1) the records, contributions, or error shall be corrected, and (2) as far as practicable, future payments or benefit entitlement shall be adjusted so that the actuarial equivalent of the pension or benefit to which the teacher or member or beneficiary was correctly entitled will be paid. An adjustment to contributions shall be picked up by the employer in accordance with AS 14.25.050 or treated as an adjustment to the employer's contributions in accordance with this section, depending upon the nature of the adjustment. If no future benefit payments are due, a person who was paid any amount to which the person was not entitled is liable for repayment of that amount, and a person who was not paid the full amount to which the person was entitled shall be paid that amount.

(b) An adjustment that requires the recovery of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the member or beneficiary was notified of the error;

(2) the error was not the result of erroneous information supplied by the member or beneficiary; and

(3) the member or beneficiary did not have reasonable grounds to believe that the amount of the benefit was in error.

(c) At each regularly scheduled meeting of the Teachers' Retirement Board, the administrator shall report to the board on all situations since the administrator's last report in which an adjustment has been prohibited under (b) of this section. If the board finds that there is reason to believe that one or more of the conditions set out in (b) of this section have not been met, the administrator shall notify the member or beneficiary that an adjustment will be made to recover the overpayment. A member or beneficiary who receives notice of adjustment under this subsection may appeal to the board for a waiver

of the adjustment under AS 14.25.175. An adjustment that requires the repayment of benefits may not be required while the appeal is pending.

(d) The system shall pay interest on amounts owed to a member or beneficiary. Interest shall be charged on amounts owed to the system by a member or beneficiary if the amount owed is the result of erroneous information supplied by the member or beneficiary, or the member or beneficiary had reasonable grounds to believe the amount of the benefit was in error. The interest paid under this subsection is at the rate established by regulation for indebtedness contributions owed. Interest accrues from the date on which the correct payment was due and continues until an actuarial adjustment to the benefit is effective or the amount owed is paid. Accrued interest for periods less than 60 days or in amounts less than the limit established in regulation for writing off small indebtedness and refund balances may not be collected or paid under this subsection.

**History** - (Sec. 4 ch 169 SLA 1976; am Sec. 1 ch 15 SLA 1984; am Sec. 2 ch 82 SLA 1986; am Sec. 11 ch 59 SLA 2002)

**Amendment Notes** - The 2002 amendment, effective June 20, 2002, in subsection (a) rewrote the first sentence and added the second sentence.

## **SEC. 14.25.175. WAIVER OF ADJUSTMENTS.**

(a) Upon appeal by an affected member or beneficiary under (b) of this section, the board may waive an adjustment or a portion of an adjustment made under AS 14.25.173 if, in the opinion of the board,

(1) the adjustment or portion of the adjustment will cause undue hardship to the member or beneficiary;

(2) the adjustment was not the result of erroneous information supplied by the member or beneficiary;

(3) before the adjustment was made, the member or beneficiary received confirmation from the administrator that the member's or beneficiary's records were correct; and

(4) the member or beneficiary had no reasonable grounds to believe the records were incorrect before the adjustment was made.

(b) In order to obtain consideration of a waiver under this section, the affected member or beneficiary must appeal to the board in writing within 30 days after receipt of notice that the records have been adjusted. The ruling of the board shall be in writing.

(c) The board may conduct a hearing on an appeal under this section.

(d) The board may impose conditions on granting a waiver that it considers equitable. These conditions may include requiring the member or beneficiary to make additional contributions to the system.

(e) The board may reconsider a ruling under this section upon request of the member or beneficiary or the administrator if the request is received within 30 days after the initial ruling. Any modification of the initial ruling must be made within 30 days after receipt of a request for reconsideration.

(f) *[Repealed, Sec. 57 ch 68 SLA 2000]*. Rulings and modifications of rulings under this section must be by a majority of a quorum of the board.

(g) *[Repealed, Sec. 57 ch 68 SLA 2000]*. Rulings on appeals and requests for reconsideration under this section may be appealed by an aggrieved member or beneficiary to the superior court for abuse of discretion. (Sec. 1 ch 81 SLA 1979; am sec. 24 ch 137 SLA 1982)

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**History** - (Sec. 1 ch 81 SLA 1979; am Sec. 24 ch 137 SLA 1982; am Sec. 11, 12, 57 ch 68 SLA 2000)

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**Amendment Notes** - The 2000 amendment, effective August 20, 2000, deleted the former second sentence in subsection (b), which read: “The board shall rule on an appeal within 120 days after its receipt”; and in subsection (c) deleted “, at its discretion,” following “board may” and deleted the former second sentence, relating to powers of the board in reaching a decision on an appeal; and repealed subsections (f) and (g).

## **SEC. 14.25.177. EFFECT OF AMENDMENTS.**

(a) An amendment to this chapter is not retroactive unless its retroactivity is expressly stated in the amendment.

(b) The monthly amount of a benefit payable under this chapter shall be determined in accordance with the provisions of this chapter in effect on the date of termination of the member’s last segment of employment.

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**History** - (Sec. 4 ch 169 SLA 1976; am Sec. 21 ch 13 SLA 1980)

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**Cross References** - For general rule on retroactivity of legislation, which (a) of this section restates, see AS 01.10.090.

**Editors Notes** - In general, a person's right to benefits under the state's public employee retirement systems vests when the person joins the system. *Hammond v. Hoffbeck*, 627 P.2d 1052 (Alaska 1981). Therefore, former law may govern the benefits of some members of the teachers' retirement system. The user is advised to ascertain which version of a particular statute is applicable. Earlier versions of the statutes can be found in prior editions of the Alaska Statutes or in the published Session Laws of Alaska.

## **SEC. 14.25.180. MANAGEMENT AND INVESTMENT OF FUND.**

(a) The Alaska State Pension Investment Board is the fiduciary of the fund. In managing the fund, the Alaska State Pension Investment Board shall

(1) consider the status of the fund's investments and the system's liabilities on both a current and a probable future basis;

(2) determine the appropriate investment objectives for the fund;

(3) establish investment policies aimed at achieving the objectives;  
and

(4) act only in regard to the best financial interests of the system's plan and beneficiaries.

(b) The Alaska State Pension Investment Board may invest the fund on the basis of probable total rate of return without regard to the distinction between principal and income or to the generation of income.

(c) In carrying out investment duties under this chapter, the Alaska State Pension Investment Board has the same powers and duties in regard to the teacher's retirement trust fund as are provided in AS 37.10.071, except that the standard of prudence that the board must obey under AS 37.10.071(c) shall be in regard to the management of large trust investments rather than large investments.

**History** - (Sec. 19 ch 145 SLA 1955; am Sec. 15 ch 89 SLA 1960; am Sec. 1 ch 128 SLA 1961; am Sec. 1 ch 90 SLA 1962; am Sec. 3 ch 4 SLA 1964; am Sec. 1, 2 ch 66 SLA 1964; am Sec. 1 ch 110 SLA 1964; am Sec. 1 ch 55 SLA 1967; am Sec. 3 ch 73 SLA 1969; am Sec. 1, 2 ch 17 SLA 1970; am Sec. 1 ch 112 SLA 1972; am Sec. 26 ch 53 SLA 1973; am Sec. 1, 2 ch 25 SLA 1974; am Sec. 1, 2 ch 59 SLA 1977; am Sec. 1 - 5 ch 122 SLA 1980; am Sec. 21 ch 138 SLA 1986; am Sec. 4 ch 141 SLA 1988; am Sec. 4 ch 31 SLA 1992)

**Amendment Notes** - The 1992 amendment substituted "Alaska State Pension Investment Board" for "commissioner of revenue" throughout the section, deleted "treasurer of the system and the" preceding "fiduciary" in the first sentence of subsection (a), inserted "plan and" in paragraph (a)(4), and substituted "board" for "commissioner" at the second instance of that word in subsection (c).



#### **SEC. 14.25.181. EXCLUSIVE BENEFIT.**

(a) The corpus or income of the assets held in trust as required by the system may not be diverted to or used for other than the exclusive benefit of the members or their beneficiaries.

(b) If, upon termination of the system, all liabilities are satisfied, any excess assets arising from erroneous actuarial computation shall revert to the employers on a pro rata basis.

**History** - (Sec. 12 ch 59 SLA 2002)

**Effective Date Notes** - Section 50, ch. 59, SLA 2002 makes this section effective June 20, 2002, in accordance with AS 01.10.070(c).

#### **SEC. 14.25.190. ACTUARIAL EVALUATIONS OF THE SYSTEM.**

Actuarial evaluations of the system shall be made at intervals of not more than five years and on the basis of the reevaluations the administrator may recommend any necessary readjustment to the legislature. Actuarial and financial experience analyses shall be prepared and certified by a member of the American Academy of Actuaries.

**History** - (Sec. 21 ch 145 SLA 1955; am Sec. 16 ch 89 SLA 1960; am Sec. 29 ch 66 SLA 1973; am Sec. 16 ch 106 SLA 1988)

#### **SEC. 14.25.195. SPECIAL RULES FOR TREATMENT OF QUALIFIED MILITARY SERVICE.**

Notwithstanding any contrary provisions of this chapter, with respect to qualified military service, contributions shall be made and benefits and service credit shall be provided in accordance with 26 U.S.C. 414(u).

**History** - (Sec. 13 ch 59 SLA 2002)

**Effective Date Notes** - Section 50, ch. 59, SLA 2002 makes this section effective June 20, 2002, in accordance with AS 01.10.070(c).

#### **SEC. 14.25.200. EXEMPTION FROM TAXATION AND PROCESS.**

(a) Except as provided in AS 29.45.030(a)(1) or in (c) of this section, member contributions and other amounts held in the system on behalf of a member or other person who is or may become eligible for benefits under the system are exempt from Alaska state and municipal taxes and are not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or

charge of any kind, either voluntary or involuntary, before they are received by the person entitled to the amount under the terms of the system. Any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of any right to amounts accrued in the system is void. However, a member's right to receive benefits or the member contribution account may be assigned

(1) under a qualified domestic relations order;

(2) to a trust or similar legal device that meets the requirements for a Medicaid-qualifying trust under AS 47.07.020(f) and 42 U.S.C. 1396p(d)(4); or

(3) as provided in (c) of this section.

(b) Member contributions and other amounts held in the system and benefits payable under this chapter are exempt from garnishment, execution, or levy as provided in AS 09.38 (exemptions).

(c) An inactive member may elect to have the taxable portion of the member contribution account transferred directly to another plan or an individual retirement arrangement that is qualified under the federal Internal Revenue Code and that accepts the transfer.

**History** - (Sec. 22 ch 145 SLA 1955; am Sec. 17 ch 89 SLA 1960; am Sec. 13 ch 84 SLA 1969; am Sec. 22 ch 13 SLA 1980; am Sec. 3 ch 62 SLA 1982; am Sec. 3 ch 82 SLA 1986; am Sec. 18 ch 117 SLA 1986; am Sec. 17 ch 106 SLA 1988; am Sec. 5 ch 31 SLA 1992; am Sec. 2 ch 102 SLA 1994; am Sec. 13, 14 ch 68 SLA 2000)

**Amendment Notes** - The 1992 amendment added "Except as provided in AS 29.45.030(a)(1)" to the beginning of subsection (a) and made related changes.

The 1994 amendment, effective September 7, 1994, in subsection (a), added the paragraph (1) designation, added paragraph (2), and made a related stylistic change.

The 2000 amendment, effective August 20, 2000, in subsection (a) inserted "or in (c) of this section" and "or the member contribution account" in the introductory language, added paragraph (3), and made stylistic changes; and added subsection (c).

**Effective Date Notes** - Effective date of 1992 amendment. - Under Sec. 28, ch. 31, SLA 1992, the amendment to (a) of this section made by Sec. 5, ch. 31, SLA 1992, takes effect on the earlier of July 1, 1993 or the date established by resolution of the Alaska State Pension Investment Board for the transfer to it of securities and assets of the relevant retirement systems.

**Decisions** - Cited in *Guterman v. First Nat'l Bank*, 597 P.2d 969 (Alaska 1979).

## **SEC. 14.25.205. TIME LIMIT FOR APPLICATION.**

If an application for benefits or for refund has not been filed with the administrator by July 1 following the date on which an inactive member (except a member on leave of absence without pay) would attain age 75, or if an application for benefits or for refund has not been filed with the administrator within the 50 years following the most recent date on which the person was an active member, benefits or refunds may not be paid under this chapter and the member's records may be destroyed.

**History** - (Sec. 14 ch 84 SLA 1969; am Sec. 23 ch 13 SLA 1980)

## **SEC. 14.25.210. PENALTY FOR FALSE STATEMENTS.**

(a) A person who knowingly makes a false statement, or falsifies or permits to be falsified any record of this system, in an attempt to defraud this system, is guilty of a class A misdemeanor and forfeits all rights under this chapter.

(b) In this section, "knowingly" has the meaning given in AS 11.81.900(a).

**History** - (Sec. 20 ch 145 SLA 1955; am Sec. 15, 16 ch 68 SLA 2000)

**Amendment Notes** - The 2000 amendment, effective August 20, 2000, in subsection (a) inserted ", in an attempt to defraud this system" and "class A," deleted ", upon conviction, is punishable by a fine of not more than \$500 or by imprisonment for not more than six months, or both, and" preceding "forfeits," and made stylistic changes; and added subsection (b).

## **SEC. 14.25.220. DEFINITIONS.**

In this chapter, unless the context requires otherwise,

(1) "active member" means a member who is employed by an employer, is receiving compensation on a full-time or part-time basis and is making contributions to the system, or a member making contributions under AS 14.20.330 or 14.20.345;

(2) "actuarial adjustment" means the adjustment necessary to obtain equality in value of the aggregate expected payments under two different forms of pension payments, considering expected mortality and interest earnings on the basis of tables referred to in the information handbook published under AS 14.25.030(5);

(3) "administrator" means the person appointed by the commissioner of administration under AS 14.25.015;

(4) “annuitant” means a retired member or a disabled member who is receiving a benefit under this system;

(5) “average base salary” means the result obtained by dividing the sum of the member’s three highest years’ base salary by three, or if a member does not have three years base salary, then by dividing the sum of all base salaries by the number of years of base salary; the base salary for a year in which credit is granted for disability totaling more than one-third of a year may not be used in the computation of the average base salary; the base salary in a school year for which the member receives compensation for less than two-thirds of a year may not be used in the computation of the average base salary; if compensation is received for more than two-thirds of a year, the full base salary for that school year shall be used in the computation of the average base salary;

(6) “base salary”

(A) means the total remuneration payable under contract for a full year of membership service, including addenda to the contract but, for a member first hired on or after July 1, 1996, does not include remuneration in excess of the limitations set out in 26 U.S.C. 401(a)(17);

(B) has the same meaning as “compensation” under AS 39.35.680(8) when applied to a state legislator who elects membership under AS 14.25.040(b);

(7) “beneficiary” means a person designated by a member to receive benefits that may be due from the system upon the member’s death;

(8) “BIA service” means service, including partial years, as a teacher, a certificated person employed in a full-time position requiring a teaching certificate as a condition of employment, or a Bureau of Indian Affairs professional educator in a school or school system contracted or operated by the Bureau of Indian Affairs in Alaska;

(9) “board” means the Alaska Teachers’ Retirement Board established under AS 14.25.035;

(10) “compensation” means the total remuneration paid under contract to a member for services rendered during a school year, including cost-of-living differentials, payments for leave that is actually used by the member, the amount by which the member’s wages are reduced under AS 39.30.150(c), and the amount deferred under an employer-sponsored deferred compensation plan or the tax shelter annuity plan approved by the Department of Education and Early Development, but does not include retirement benefits, welfare benefits, per diem, expense allowances, workers’ compensation payments, or

payments for leave not used by the member, whether those leave payments are scheduled payments, lump-sum payments, donations, or cash-ins; for purposes of AS 14.25.050, compensation paid includes any payment made after June 30 of a school year for services rendered before the end of the school year;

(11) “credited service” means

(A) all membership service as defined in this section, territorial employment as defined in this section, plus outside, military, and Alaska BIA service, with outside and military service limited to 10 years except under the conditions set out in AS 14.25.100;

(B) for purposes of eligibility for benefits under this chapter, service for which no indebtedness is owed;

(12) “deferred vested member” means an inactive member who meets the service requirements of a vested member;

(13) “dependent child” means an unmarried child of a member, including an adopted child, who is dependent upon the member for support and who is either (A) less than 19 years old, or (B) less than 23 years old and registered at and attending on a full-time basis an accredited educational or technical institution recognized by the Department of Education and Early Development; the age limits set out in this paragraph do not apply to a child who is totally and permanently disabled;

(14) “disabled member” means a member who is terminated, who has not received a refund from the system, and who is receiving a disability benefit from the system;

(15) “early retirement” means retirement under AS 14.25.110(b);

(16) “employer” means a public school district, the Board of Regents of the University of Alaska, the Department of Education and Early Development, the National Education Association of Alaska, the Regional Resource Centers, or the state legislature with respect to a state legislator who elects membership under AS 14.25.040(b);

(17) “fiscal year” means the period beginning on July 1 and ending on June 30 of the following calendar year;

(18) “former member” means a member who is terminated and who received a total refund of the balance of the mandatory contribution account, or who has requested in writing a refund of the balance of the mandatory contribution account;

(19) “full-time teacher” means a teacher occupying a position requiring teaching on a regular basis for the normal work period per day or week at a teaching assignment, excluding teaching as an assistant or graduate assistant or teaching on a substitute, temporary, or per diem basis;

(20) “inactive teacher or member” means a member who is terminated and who has not received a refund from the system or a member who is on leave of absence and who is not making contributions under AS 14.20.345;

(21) “Internal Revenue Code” means the Internal Revenue Code of 1986, as amended;

(22) “member contribution account” means the total maintained by the system of the member’s mandatory contributions, indebtedness principal and interest payments, interest credited to each of those accounts, and adjustments to the account in accordance with AS 14.25.173;

(23) “membership service” means

(A) full or part-time service as a teacher in a public school in the Territory or State of Alaska, or both, under the supervision and control of the Territorial Board of Education or the Department of Education and Early Development or the school board of a city, regional educational attendance area, or borough school district;

(B) full-time or part-time teaching at the University of Alaska or a full-time administrative position at the University of Alaska that requires academic standing and that has been approved for inclusion in the system by the administrator;

(C) any period during which the teacher receives a disability benefit under this system or is on an approved sabbatical leave granted in accordance with AS 14.20.310;

(D) continuous service as a state legislator when performed by a state legislator who elects membership under AS 14.25.040(b), subject to the requirements of AS 14.25.040(c);

(E) full-time or part-time service as an employee of the Special Education Service Agency, subject to the requirements of AS 14.25.047; or

(F) full-time or part-time service as an Alaska Native language or culture expert, subject to the requirements of AS 14.25.048;

(24) “military service” means active duty in the armed forces of the United States;

(25) “nonpublic school” means a school established by an agency other than a state that is primarily supported by other than public funds, and operation of whose program rests with other than publicly elected or appointed officials, and is state approved or accredited;

(26) “non-vested member” means an active or inactive member who does not meet the requirements of a vested member or deferred vested member;

(27) “normal retirement” means retirement under AS 14.25.110(a);

(28) “outside service” means service for full years as defined by (45)(A)(x) and (45)(B)(xi) of this section

(A) as a certificated full-time elementary or secondary teacher or a certificated person in a full-time position requiring a teaching certificate as a condition of employment in an out-of-state public school within the United States, or in a school outside the United States supported by funds of the United States;

(B) as a certificated full-time elementary or secondary teacher or a certificated person in a full-time position requiring a teaching certificate as a condition of employment in an approved or accredited nonpublic school within the United States, or in a school outside the United States supported by funds of the United States;

(C) in a full-time position requiring academic standing in an out-of-state institution of higher learning accredited by a nationally recognized accrediting agency as listed in the Education Directory - Colleges and Universities by the National Center for Education Statistics;

(D) as a full-time teacher in an approved or accredited nonpublic institution of higher learning in Alaska;

(29) “part-time teacher” means a teacher occupying a position requiring teaching on a regular basis for at least 50 percent of the normal workweek at a teaching assignment, excluding teaching as an assistant or graduate assistant, or teaching on a substitute, temporary, or per diem basis;

(30) “permanent disability” means a physical or mental condition that, in the judgment of the administrator, based upon medical reports and other evidence satisfactory to the administrator, presumably prevents a member from satisfactorily performing the member’s usual duties for the member’s employer or the duties of another position or job that an employer makes available for which the member is qualified by training or education;

(31) “qualified domestic relations order” means a divorce or dissolution judgment under AS 25.24, including an order approving a property settlement, that

(A) creates or recognizes the existence of an alternate payee’s right to, or assigns to an alternate payee the right to, receive all or a portion of the member contribution account or benefits payable with respect to a member;

(B) sets out the name and last known mailing address, if any, of the member and of each alternate payee covered by the order;

(C) sets out the amount or percentage of the member’s benefit, or of any survivor’s benefit, to be paid to the alternate payee, or sets out the manner in which that amount or percentage is to be determined;

(D) sets out the number of payments or period to which the order applies;

(E) sets out the plan to which the order applies;

(F) does not require any type or form of benefit or any option not otherwise provided by this chapter;

(G) does not require an increase of benefits in excess of the amount provided by this chapter, determined on the basis of actuarial value; and

(H) does not require the payment, to an alternate payee, of benefits that are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order;

(32) “public school” means a school operated by publicly elected or appointed school officials in which the program and activities are under the control of those officials and that is supported by public funds;

(33) “qualified domestic relations order” means a divorce or dissolution judgment under AS 25.24, including an order approving a property settlement, that

(A) creates or recognizes the existence of an alternate payee’s right to, or assigns to an alternate payee the right to, receive all or a portion of the member contribution account or benefits payable with respect to a member;

(B) sets out the name and last known mailing address, if any, of the member and of each alternate payee covered by the order;



(C) sets out the amount or percentage of the member's benefit, or of any survivor's benefit, to be paid to the alternate payee, or sets out the manner in which that amount or percentage is to be determined;

(D) sets out the number of payments or period to which the order applies;

(E) does not require any type or form of benefit or any option not otherwise provided by this chapter;

(F) does not require an increase of benefits in excess of the amount provided by this chapter, determined on the basis of actuarial value; and

(G) does not require the payment, to an alternate payee, of benefits that are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order;

(34) "retired teacher or member" means a member who is terminated, who has not received a refund from the system, and who is receiving a benefit, other than disability, from the system;

(35) "retirement" means that period of time from the first day of the month following

(A) the date of termination; and

(B) application for retirement in which a person is appointed to receive a retirement benefit, other than a disability benefit;

(36) "retirement benefit" means the annuity received by a retired member from the system;

(37) "retirement fund" or "fund" means the fund in which the assets of the system, including income and interest derived from the investment of money, are deposited and held;

(38) "Retirement System of 1945" and "Retirement Fund of 1945" or like terms mean the system and fund established in sections 37-5-21 - 37-5-35, ACLA 1949;

(39) "school year" means the 12-month period beginning July 1 of each year and ending June 30 of the following year;

(40) "supplemental contribution account" means the account maintained by the system to record the supplemental contributions of each

member, including interest and adjustments to the account in accordance with AS 14.25.170;

(41) “system” means the Teachers’ Retirement System of Alaska;

(42) “teacher” or “member” means a person eligible to participate in the system and who is covered by the system, limited to

(A) a certificated full-time or part-time elementary or secondary teacher, a certificated school nurse, or a certificated person in a position requiring a teaching certificate as a condition of employment in a public school of the state or in the Department of Education and Early Development;

(B) a full-time or part-time teacher of the University of Alaska or a person occupying a full-time administrative position at the University of Alaska that requires academic standing; the approval of the administrator must be obtained before an administrative position qualifies for membership in the system; however, a teacher or administrative person at the university who is participating in the optional university retirement program under AS 14.40.661 - 14.40.799 is not a member under this system;

(C) a state legislator who elects membership under AS 14.25.040(b);

(43) “territorial employment” means non-teaching employment with the Territory of Alaska as provided under AS 14.25.105; territorial employment is not membership service;

(44) “vested member” or “vested teacher” means an active member who has completed either

(A) 15 years of service, the last five of which have been membership service, for a member first hired before July 1, 1975;

(B) eight years of membership service;

(C) five years of membership and three years of BIA service;

or

(D) 12 school years of part-time membership service or 12 school years in each of which the member earned either part-time or full-time membership service;

(45) “year of service” means service, except for military and territorial service, during the dates set for a school year; partial-year service credit is given for membership and BIA service as follows:

(A) before July 1, 1969, during any school year,

- (i) less than 20 days, no credit;
- (ii) 20 days or more but less than 35 days, 0.2 years;
- (iii) 35 days or more but less than 49 days, 0.3 years;
- (iv) 49 days or more but less than 63 days, 0.4 years;
- (v) 63 days or more but less than 77 days, 0.5 years;
- (vi) 77 days or more but less than 91 days, 0.6 years;
- (vii) 91 days or more but less than 105 days, 0.7 years;
- (viii) 105 days or more but less than 119 days, 0.8 years;
- (ix) 119 days or more but less than 133 days, 0.9 years;
- (x) 133 days or more, 1.0 years;

(B) on or after July 1, 1969, during any school year,

- (i) less than nine days, no credit;
- (ii) nine days or more but less than 27 days, 0.1 years;
- (iii) 27 days or more but less than 45 days, 0.2 years;
- (iv) 45 days or more but less than 63 days, 0.3 years;
- (v) 63 days or more but less than 81 days, 0.4 years;
- (vi) 81 days or more but less than 100 days, 0.5 years;
- (vii) 100 days or more but less than 118 days, 0.6 years;

(viii) 118 days or more but less than 136 days, 0.7 years;

(ix) 136 days or more but less than 154 days, 0.8 years;

(x) 154 days or more but less than 172 days, 0.9 years;

(xi) 172 days or more, 1.0 years;

(C) service performed on a part-time basis will be credited in proportion to the amount of credit that would have been received for service performed on a full-time basis.

**History** - (Sec. 2 ch 145 SLA 1955; am Sec. 1 ch 142 SLA 1957; am Sec. 2 ch 89 SLA 1960; am Sec. 7 ch 179 SLA 1960; am Sec. 1, 2 ch 78 SLA 1962; am Sec. 8 - 12 ch 86 SLA 1963; am Sec. 1 ch 76 SLA 1968; am Sec. 15 - 19 ch 84 SLA 1969; am Sec. 21 ch 46 SLA 1970; am Sec. 13 - 18 ch 138 SLA 1970; am Sec. 3 - 5 ch 229 SLA 1970; am Sec. 16 - 18 ch 32 SLA 1971; am Sec. 6 - 8 ch 86 SLA 1971; am Sec. 30 - 33 ch 66 SLA 1973; am Sec. 3 ch 57 SLA 1974; am Sec. 21 ch 127 SLA 1974; am Sec. 12, 13 ch 173 SLA 1975; am Sec. 1, 6 ch 155 SLA 1976; am Sec. 5 ch 169 SLA 1976; am Sec. 12, 13 ch 128 SLA 1977; am Sec. 4, 5 ch 174 SLA 1978; am Sec. 4 - 7 ch 82 SLA 1979; am Sec. 24 ch 13 SLA 1980; am Sec. 25 - 28 ch 137 SLA 1982; am Sec. 1 ch 55 SLA 1985; am Sec. 4 - 7 ch 82 SLA 1986; am Sec. 4 ch 112 SLA 1986; am Sec. 19 ch 117 SLA 1986; am Sec. 18, 19 ch 106 SLA 1988; am Sec. 31 ch 50 SLA 1989; am Sec. 3 ch 104 SLA 1989; am Sec. 16 ch 97 SLA 1990; am Sec. 1 ch 44 SLA 1992; am Sec. 1 ch 53 SLA 2000; am Sec. 17 - 20 ch 68 SLA 2000; am Sec. 14, 15, 16 ch 59 SLA 2002)

**Revisors Notes** - Reorganized in 1987 and 2002 to alphabetize the defined terms.

In 1999, in various paragraphs of this section, “commissioner of education” was changed to “commissioner of education and early development” and “Department of Education” was changed to “Department of Education and Early Development” in accordance with Sec. 89, ch. 58, SLA 1999.

**Cross References** - For retroactive effect of the 1980 amendments to paragraphs (23), (24), (28), and (42) [formerly (21), (22), (26), and (40)], see Sec. 51(1), ch. 13, SLA 1980; for claims of prior service based on the 1985 amendment of paragraph (8), see Sec. 2, ch. 55, SLA 1985.

For requests for recalculation of credited service based on the 2000 amendment of subparagraph (45)(C) [formerly (43)(C)], see sec. 2, ch. 53, SLA 2000 in the 2000 Temporary and Special Acts.

**Amendment Notes** - The 1992 amendment, effective August 28, 1992, inserted “contracted or” in paragraph (8).

The first 2000 amendment, effective August 9, 2000, in subparagraph (45)(C) [formerly (43)(C)] substituted “in proportion to the amount of credit that would have been reserved for service performed on a full-time basis” for “with one-half credit for each day of service.”

The second 2000 amendment, effective August 20, 2000, in subparagraph (6)(A) added “but, for a member first hired on or after July 1, 1996, does not include remuneration in excess of the limitations set out in 26 U.S.C. 401(a)(17)” at the end; in subparagraph (33)(A) [formerly (31)(A)] inserted “member contribution account or”; in paragraph (37) [formerly (35)] inserted “, including income and interest derived from the investment of money,”; and in paragraph (42) [formerly (40)] added “or in the Department of Education and Early Development” at the end of subparagraph (A), deleted former subparagraph (B), which read: “the commissioner of education and early development and all supervisory positions in the department of education and early development,” and redesignated the subsequent subparagraphs accordingly.

The 2002 amendment, effective June 20, 2002, in paragraph (2) inserted “the adjustment necessary to obtain” and substituted “referred to in the information handbook published under AS 14.25.030(5)” for “adopted from time to time by the board”; in paragraph (31) added present subparagraph (E) and renumbered subsequent subparagraphs accordingly; and added paragraphs (17) and (21).

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**Editors Notes** - In general, a person’s right to benefits under the state’s public employee retirement systems vests when the person joins the system. *Hammond v. Hoffbeck*, 627 P.2d 1052 (Alaska 1981). Therefore, former law may govern the benefits of some members of the teachers’ retirement system. The user is advised to ascertain which version of the statute is applicable. Earlier versions of the statutes can be found in prior editions of the Alaska Statutes or in the published Session Laws of Alaska.

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**AG Opinions** - Amounts paid by the Anchorage School District to the Anchorage Education Association for dues for the association’s representation of teachers in the district should not be included in base salary either for payment of contributions or for computation of benefits. July 25, 1989 Op. Att’y Gen.

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**Decisions** - “Membership years” in AS 14.25.130(a). - Teachers’ Retirement Board erred when it interpreted the term “membership years” in AS 14.25.130(a) as being the equivalent of “years of service” as defined in this section. *Casperson v. Alaska Teachers’ Retirement Bd.*, 664 P.2d 583 (Alaska 1983).

Quoted in *Flisock v. State, Div. of Retirement & Benefits*, 818 P.2d 640 (Alaska 1991).

Cited in *Laing v. Laing*, 741 P.2d 649 (Alaska 1987).

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**Collateral Refs** - What constitutes “salary,” “wages,” “pay,” or the like, within pension law basing benefits thereon. 91 ALR5th 225.

## **ARTICLE 04. SABBATICAL LEAVE**

### **SEC. 14.20.280. BASIS OF LEAVE.**

A teacher who has rendered active service for seven or more years in a district is eligible for sabbatical leave. Sabbatical leave may be taken for educational purposes only, and for not more than one school year.

**History** - (Sec. 1 ch 134 SLA 1962; am Sec. 1 ch 62 SLA 1964; am Sec. 2 ch 104 SLA 1965; am Sec. 27 ch 98 SLA 1966; am Sec. 1 ch 168 SLA 1968)

**Article Notes** - Collateral References.- 68 Am. Jur. 2d Schools, Sec. 132.

78 C.J.S. Schools and School Districts, Sec. 329.

### **SEC. 14.20.290. APPLICATION.**

A teacher who wishes to take sabbatical leave shall apply to the governing body of the school district. The teacher shall submit information showing qualifications for sabbatical leave and a plan for education during the leave.

**History** - (Sec. 2 ch 134 SLA 1962; am Sec. 28 ch 98 SLA 1966)

### **SEC. 14.20.300. SELECTION OF TEACHERS.**

(a) The governing body of the school district has the responsibility for selection of the teachers to be granted sabbatical leave.

(b) In selecting teachers for sabbatical leave, the governing body shall consider the benefit that the school district will derive from the proposed plan of the teacher for educational purposes, the field of study of the teacher, the contributions of the teacher to education in the state, and the seniority of the teacher.

**History** - (Sec. 3 ch 134 SLA 1962; am Sec. 29 ch 98 SLA 1966)

### **SEC. 14.20.310. NUMBER OF TEACHERS ON SABBATICAL LEAVE; COMPENSATION.**

(a) The number of teachers eligible for sabbatical leave that may be allowed under AS 14.20.280 - 14.20.350 is as follows:

(1) not more than one-half of one percent of the total number of teachers from all borough and city school districts and regional education attendance areas may be on state-supported sabbatical leave in any year;

(2) any number of teachers may be on sabbatical leave at school district or personal expense.

(b) A teacher on state-supported sabbatical leave is entitled to one-half of base salary to be paid by the department.

(c) A teacher on sabbatical leave at district expense is entitled to an amount of salary to be determined by the school board.

**History** - (Sec. 4 ch 134 SLA 1962; am Sec. 3 ch 104 SLA 1965; am Sec. 30 ch 98 SLA 1966; am Sec. 2 ch 168 SLA 1968; am Sec. 53 ch 6 SLA 1984)

#### **SEC. 14.20.320. RESPONSIBILITY OF TEACHER.**

Upon the return of a teacher to the teaching position, the teacher shall make a report to the governing body concerning educational accomplishments. A teacher who does not serve for at least a full year after returning shall refund to the school board money paid to the teacher under AS 14.20.310 unless the failure to serve a full year after return is attributable to sickness, injury, or death.

**History** - (Sec. 5 ch 134 SLA 1962; am Sec. 4 ch 104 SLA 1965; am Sec. 31 ch 98 SLA 1966; am Sec. 20 ch 46 SLA 1970; am Sec. 54 ch 6 SLA 1984)

#### **SEC. 14.20.330. POSITION, TENURE, AND RETIREMENT.**

(a) Unless it is otherwise agreed, a teacher returning from sabbatical leave shall return to the position occupied by that teacher when the sabbatical leave began.

(b) A sabbatical leave is not an interruption of the continuous service necessary to attain or retain tenure under AS 14.20.150, 14.20.155, or 14.20.160. However, the time spent on sabbatical leave may not be counted in determining when a teacher has sufficient service to enable the teacher to acquire tenure rights.

(c) A sabbatical leave is not a break in service for retirement purposes. Payment into the retirement fund shall be made on the basis of full salary.

**History** - (Sec. 6 ch 134 SLA 1962; am Sec. 32 ch 98 SLA 1966)

#### **SEC. 14.20.340. MILITARY SERVICE AND PREVIOUS LEAVES OF ABSENCE.**

To determine eligibility for sabbatical leave, tours of military service and leaves of absence granted before July 1, 1963, are not considered years of active service.

**History** - (Sec. 7 ch 134 SLA 1962; am Sec. 2 ch 62 SLA 1964)

#### **SEC. 14.20.345. LEAVE OF ABSENCE WITHOUT PAY.**

(a) A teacher may be granted a leave of absence without pay for the purposes which may be approved by the governing body of the district if

(1) the teacher's application is approved by the governing body of the district; and

(2) the teacher agrees to return to employment in a public school not later than the beginning of the school year following termination of the period for which the leave of absence was granted.

(b) A leave of absence is not an interruption of the continuous service necessary to attain or retain retirement or tenure rights under AS 14.20.150, 14.20.155, or 14.20.160. However, the time spent on leave of absence may not be counted in determining when a teacher has sufficient service to enable the teacher to acquire retirement or tenure rights.

(c) The leave of absence is not a break in service for retirement purposes.

(d) The governing body of the district may agree to continue the teacher's retirement contributions if the teacher agrees to pay the percent required under AS 14.25.050 of the salary the teacher would have received during the leave of absence and reimburse the district for the district's required retirement contribution. Each year of leave of absence then would count as a year of retirement service.

(e) The governing body of the district may advance the teacher on the district salary schedule when the teacher returns to employment if the governing body determines that the teacher's leave of absence was educationally or professionally beneficial to the teacher or the district.

(f) A teacher may make contributions to the retirement fund for each year or portion of a year of leave of absence taken. The contribution shall include the required per cent of the salary the teacher would have received had the leave of absence not been taken, plus the required employer and state



contributions that would have been made. Compound interest at the rate prescribed by regulation shall be added as computed from the beginning date of the leave of absence to the date the teacher pays the contribution.

**History** - (Sec. 5 ch 104 SLA 1965; am Sec. 33, 34 ch 98 SLA 1966; am Sec. 1 ch 44 SLA 1971; am Sec. 1 ch 184 SLA 1972; am Sec. 2 ch 99 SLA 1974; am Sec. 1 ch 6 SLA 1993)

**Amendment Notes** - The 1993 amendment, effective April 14, 1993, substituted “the percent required under AS 14.25.050” for “the required seven percent” in subsection (d).

#### **SEC. 14.20.350. DEFINITION.**

In AS 14.20.280 - 14.20.350 “teacher” means a certificated member of the teaching, supervisory, or administrative corps in the public schools of the state.

**History** - (Sec. 8 ch 134 SLA 1962)

# Alaska Statutes

## Title 39. Public Officers and Employees.

### CHAPTER 30. INSURANCE AND SUPPLEMENTAL EMPLOYEE BENEFITS

#### Article

1. Group Life and Health Insurance (Secs. 39.30.090--39.30.096)
2. Supplemental Employee Benefits on Withdrawal of Social Security (Secs. 39.30.150--39.30.180)

#### ARTICLE 02. GROUP LIFE AND HEALTH INSURANCE

##### SEC. 39.30.090. PROCUREMENT OF GROUP INSURANCE.

(a) The Department of Administration may obtain a policy or policies of group insurance covering state employees, persons entitled to coverage under AS 14.25.168, AS 22.25.090, AS 39.35.535 or former AS 39.37.145, employees of other participating governmental units, or persons entitled to coverage under AS 23.15.136, subject to the following conditions:

(1) A group insurance policy shall provide one or more of the following benefits: life insurance, accidental death and dismemberment insurance, weekly indemnity insurance, hospital expense insurance, surgical expense insurance, dental expense insurance, audiovisual insurance, or other medical care insurance.

(2) Each eligible employee of the state, the spouse and the unmarried children chiefly dependent on the eligible employee for support, and each eligible employee of another participating governmental unit shall be covered by the group policy, unless exempt under regulations adopted by the commissioner of administration.

(3) A governmental unit may participate under a group policy if

(A) its governing body adopts a resolution authorizing participation, and payment of required premiums;

(B) a certified copy of the resolution is filed with the Department of Administration; and

(C) the commissioner of administration approves the participation in writing.

(4) In procuring a policy of group health or group life insurance as provided under this section or excess loss insurance as provided in AS 39.30.091, the Department of Administration shall comply with the dual choice requirements of AS 21.86.310, and shall obtain the insurance policy from an insurer authorized to transact business in the state under AS 21.09, a hospital or medical service corporation authorized to transact business in this state under AS 21.87, or a health maintenance organization authorized to operate in this state under AS 21.86. An excess loss insurance policy may be obtained from a life or health insurer authorized to transact business in this state under AS 21.09 or from a hospital or medical service corporation authorized to transact business in this state under AS 21.87.

(5) The Department of Administration shall make available bid specifications for desired insurance benefits or for administration of benefit claims and payments to (A) all insurance carriers authorized to transact business in this state under AS 21.09 and all hospital or medical service corporations authorized to transact business under AS 21.87 who are qualified to provide the desired benefits; and (B) to insurance carriers authorized to transact business in this state under AS 21.09, hospital or medical service corporations authorized to transact business under AS 21.87, and third-party administrators licensed to transact business in this state and qualified to provide administrative services. The specifications shall be made available at least once every five years. The lowest responsible bid submitted by an insurance carrier, hospital or medical service corporation, or third-party administrator with adequate servicing facilities shall govern selection of a carrier, hospital or medical service corporation, or third-party administrator under this section or the selection of an insurance carrier or a hospital or medical service corporation to provide excess loss insurance as provided in AS 39.30.091.

(6) If the aggregate of dividends payable under the group insurance policy exceeds the governmental unit's share of the premium, the excess shall be applied by the governmental unit for the sole benefit of the employees.

(7) A person receiving benefits under AS 14.25.110, AS 22.25, AS 39.35, or former AS 39.37 may continue the life insurance coverage that was in effect under this section at the time of termination of employment with the state or participating governmental unit.

(8) A person electing to have insurance under (7) of this subsection shall pay the cost of this insurance.

(9) For each permanent part-time employee electing coverage under this section, the state shall contribute one-half the state contribution rate for permanent full-time state employees, and the permanent part-time employee shall contribute the other one-half.

(10) A person receiving benefits under AS 14.25, AS 22.25, AS 39.35, or former AS 39.37 may obtain auditory, visual, and dental insurance for that person and eligible dependents under this section. The level of coverage for persons over 65 shall be the same as that available before reaching age 65 except that the benefits payable shall be supplemental to any benefits provided under the federal old age, survivors, and disability insurance program. A person electing to have insurance under this paragraph shall pay the cost of the insurance. The commissioner of administration shall adopt regulations implementing this paragraph.

(11) A person receiving benefits under AS 14.25, AS 22.25, AS 39.35, or former AS 39.37 may obtain long-term care insurance for that person and eligible dependents under this section. A person who elects insurance under this paragraph shall pay the cost of the insurance premium. The commissioner of administration shall adopt regulations to implement this paragraph.

(12) Each licensee holding a current operating agreement for a vending facility under AS 23.15.010 - 23.15.210 shall be covered by the group policy that applies to governmental units other than the state.

(b) In this section

(1) “eligible employee” means

(A) an employee who has served in permanent full-time or part-time employment with the same governmental unit for 30 days or more, except an emergency or temporary employee;

(B) an elected or appointed official of a governmental unit, effective upon taking the oath of office; and

(C) a contractual employee of the legislative branch of state government under AS 24.10.060(f) if the employee’s personal services contract provides that the employee is entitled to coverage;

(2) “governmental unit” means the state, a municipality, school district, or other political subdivision of the state, and the North Pacific Fishery Management Council;

(3) “insurance”, “insurance carrier” and “insurance policy” include health care services, health care service contractors and contracts, and health maintenance organizations.

**History** - (Sec. 1, 2 ch 151 SLA 1955; am Sec. 1 ch 168 SLA 1959; am Sec. 1, 2 ch 105 SLA 1965; am Sec. 1 ch 70 SLA 1968; am Sec. 66 ch 69 SLA 1970; am Sec. 1 ch 123 SLA 1970; am Sec. 1 ch 159 SLA 1972; am Sec. 1, 2 ch 46 SLA 1973; am Sec. 13, 14 ch 47 SLA 1974; am Sec. 2, 3 ch 27 SLA 1976; am Sec. 2 ch 86 SLA 1977; am Sec. 39 ch 177 SLA 1978; am Sec. 1 ch 55 SLA 1979; am Sec. 1 ch 62 SLA 1981; am Sec. 37 ch 137 SLA 1982; am Sec. 1 ch 46 SLA 1984; am Sec. 13, 14 ch 82 SLA 1986; am Sec. 2 ch 38 SLA 1990; am Sec. 2, 3 ch 95 SLA 1990; am Sec. 67, 68 ch 63 SLA 1993; am Sec. 106 ch 56 SLA 1996; am Sec. 3 ch 22 SLA 1998)

**Revisors Notes** - Subsection (b) was formerly AS 39.30.100. Renumbered in 1987.

**Cross References** - For the purpose of the 1978 amendatory act, see Sec. 1, ch. 177, SLA 1978 as amended by Sec. 7, ch. 46, SLA 1982, in the 1982 Temporary and Special Acts and Resolves. For limited enrollment period for certain previously ineligible persons to apply for coverage under paragraph (7) of this section, see Sec. 2, ch. 46, SLA 1984 in the Temporary and Special Acts. For legislative intent concerning the 1998 amendment to paragraph (b)(1), see Sec. 1, ch. 22, SLA 1998 in the 1998 Temporary and Special Acts.

**Amendment Notes** - The 1993 amendment, effective January 1, 1993, rewrote the first sentence and added the present second sentence of paragraph (a)(4), and rewrote paragraph (a)(5).

The 1996 amendment, effective September 9, 1996, substituted “health” for “disability” in paragraph (a)(4).

The 1998 amendment, effective July 30, 1998, added subparagraph (b)(1)(C) and made related stylistic changes.

**Editors Notes** - Section 87, ch. 63, SLA 1993 provides “[i]f any section of this bill is found to violate the single subject rule it is severed from the rest of the bill.”

**AG Opinions** - Because health insurance deals with the economic interests of employees and does not deal with fundamental policy; because this section, the group insurance statute, authorizes the Department of Administration to obtain “a policy or policies”; and because this section does not specify what levels of coverage or benefits must be included in the policy (or policies) obtained, the issue of group life and health insurance benefits is negotiable under the Public Employment Relations Act (AS 23.40.070 - 23.40.260). January 23, 1978 Op. Att’y Gen.

To the extent the cost of negotiated group life and health insurance coverage exceeds what the state would have paid under its employer-sponsored plan, the negotiated coverage is subject to legislative approval under AS 23.40.215. January 23, 1978 Op. Att’y Gen.

**Decisions** -Construction with Human Rights Act. - This section does not evince the intent by the legislature to allow an employer to discriminate on the basis of an employee's marital status in the provision of health insurance plans. *University of Alaska v. Tumeo*, 933 P.2d 1147 (Alaska 1997).

**Article Notes** - Administrative Code. For group health and life insurance, see 2 AAC 39.

## **SEC. 39.30.091. AUTHORIZATION FOR SELF-INSURANCE AND EXCESS LOSS INSURANCE.**

Notwithstanding AS 21.86.310 or AS 39.30.090, the Department of Administration may provide, by means of self-insurance, one or more of the benefits listed in AS 39.30.090(a)(1) for state employees eligible for the benefits by law or under a collective bargaining agreement and for persons receiving benefits under AS 14.25, AS 22.25, AS 39.35, or former AS 39.37, and their dependents. The department shall procure any necessary excess loss insurance under AS 39.30.090.

**History** - (Sec. 69 ch 63 SLA 1993; am Sec. 27 ch 68 SLA 2000)

**Amendment Notes** - The 2000 amendment, effective August 20, 2000, added the language beginning "and for persons receiving" at the end of the first sentence.

**Editors Notes** - Section 87, ch. 63, SLA 1993 provides "[i]f any section of this bill is found to violate the single subject rule it is severed from the rest of the bill."

## **SEC. 39.30.095. GROUP HEALTH AND LIFE BENEFITS FUND.**

(a) The commissioner of administration shall establish the group health and life benefits fund as a special account in the general fund to provide for group life and health insurance under AS 39.30.090 and 39.30.160 or for self-insurance arrangements under AS 39.30.091. The commissioner shall maintain accounts and records for the fund. The fund consists of employer contributions, employee contributions, appropriations from the legislature, and income earned on investment of the fund as provided in (d) of this section.

(b) After obtaining the advice of an actuary, the commissioner of administration shall determine the amount necessary to provide benefits under AS 39.30.090, 39.30.091, and 39.30.160 and, subject to (e) of this section, shall set the rate of employer contribution and employee contribution, if any. With money in the fund, the commissioner of administration shall pay premiums, claims, and administrative costs required under the insurance policies in effect under AS 39.30.090 and 39.30.160, or required under self-insurance arrangements in effect under AS 39.30.091.

(c) The commissioner of administration or the designee of the commissioner is administrator of the fund. The commissioner may contract with

(1) an insurer authorized to transact business in this state under AS 21.09, or a hospital or medical service corporation authorized to transact business in this state under AS 21.87 to reimburse the state for the cost of administering group insurance provided under AS 39.30.090 and 39.30.160; and

(2) a life or health insurer authorized to transact business in the state under AS 21.09, a hospital or medical service corporation authorized to transact business in this state under AS 21.87, or a third-party administrator licensed to transact business in this state for the administration of benefit claims and payments under AS 39.30.091.

(d) If the commissioner of administration determines that there is more money in the fund than the amount needed to pay premiums, benefits, and administrative costs for the current fiscal year, the surplus, or so much of it as the commissioner of administration considers advisable, may be invested by the commissioner of revenue in the same manner as retirement funds are invested under AS 14.25.180.

(e) Notwithstanding (b) of this section, the rate of employer contribution to provide hospital, surgical, dental, audiovisual, and other medical care benefits under AS 39.30.091 is \$515 monthly beginning July 1, 2000; \$575 monthly beginning July 1, 2001; and \$630 monthly beginning July 1, 2002, for the following employees and officials:

(1) employees in the executive branch of the state government, including the governor and lieutenant governor, who are not members of a collective bargaining unit established under the authority of AS 23.40.070 - 23.40.260 (Public Employment Relations Act);

(2) officials and employees of the legislative branch of state government under AS 24;

(3) employees in the judicial branch of state government, including magistrates and other judicial officers, who are not members of a collective bargaining unit established under AS 23.40.070 - 23.40.260 (Public Employment Relations Act).

(f) In this section, “fund” means the group health and life benefits fund.

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**History** - (Sec. 38 ch 137 SLA 1982; am Sec. 57 ch 138 SLA 1986; am Sec. 27, 28 ch 141 SLA 1988; am Sec. 70 - 73 ch 63 SLA 1993; am Sec. 107 ch 56 SLA 1996; am Sec. 6, 7 ch 2 TSSLA 2000)

**Revisors Notes** - Subsection (e) was enacted as (f). Relettered in 2000, at which time former subsection (e) was relettered as (f) and a conforming amendment was made in subsection (b).

**Amendment Notes** - The 1993 amendment, effective January 1, 1993, in subsection (a), inserted “or for self-insurance arrangements under AS 39.30.091” in the first sentence; in subsection (b), inserted a section reference in the first sentence and rewrote the second sentence; rewrote subsection (c); and, in subsection (d), inserted “and administrative costs” and made related stylistic changes.

The 1996 amendment, effective September 9, 1996, substituted “health” for “disability” in paragraph (c)(2).

The 2000 amendment, effective July 1, 2000, inserted “, subject to (e) of this section,” in subsection (b) and added subsection (e).

**Editors Notes** - Section 87, ch. 63, SLA 1993 provides “[i]f any section of this bill is found to violate the single subject rule it is severed from the rest of the bill.”

## **SEC. 39.30.096. ACCOUNTING AND DISPOSITION OF FEES. [REPEALED, SEC. 28 CH 90 SLA 1991].**

Repealed or Renumbered. The commissioner of administration shall separately account for all fees collected under AS 39.30.095(c) that the department deposits in the general fund. The annual estimated balance in the account may be used by the legislature to make appropriations to the department to carry out the purposes of this chapter. (58 ch 138 SLA 1986)

## **SEC. 39.30.100. [RENUMBERED AS AS 39.30.090(B)].**

**Repealed or Renumbered.**





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